

(100-81)

COMPILATION OF SELECTED AVIATION LAWS

FEDERAL AVIATION ACT OF 1958
CIVIL AERONAUTICS BOARD SUNSET ACT OF 1984
EMPLOYEE PROTECTION PROVISIONS
AIRPORT AND AIRWAY IMPROVEMENT ACT OF 1982
TAX PROVISIONS RELATING TO AIR TRANSPORTATION
AIRPORT AND AIRWAY TRUST FUND
INDEPENDENT SAFETY BOARD ACT OF 1974
AVIATION SAFETY AND NOISE ABATEMENT ACT OF 1979
INTERNATIONAL AIR TRANSPORTATION COMPETITION ACT OF
1979
ACTS RELATING TO WASHINGTON AREA AIRPORTS
GOVERNMENT GUARANTY OF LOANS TO AIR CARRIERS
ACTS RELATING TO SURPLUS AIRPORT PROPERTY
HAZARDOUS MATERIALS TRANSPORTATION ACT
SELECTED PROVISIONS OF SUBTITLE I OF TITLE 49
LAWS RELATING TO INTERNATIONAL AVIATION

PREPARED FOR THE USE OF THE

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PUBLIC WORKS AND TRANSPORTATION
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INTRODUCTORY NOTE

This compilation contains the provisions of the Federal Aviation Act of 1958 and various other Acts as each provision was enacted and amended through the 100th Congress.

The Department of Transportation Act (Public Law 89-670), enacted October 15, 1966, abolished the Federal Aviation Agency and established the Department of Transportation and the Federal Aviation Administration within the Department. Provisions of law enacted before the date of enactment of the Department of Transportation Act should be read as modified by the following transfers of functions:

Section 6(c)(1) of the Department of Transportation Act transferred all functions, powers, and duties of the Administrator of the Federal Aviation Agency to the Secretary of Transportation. Certain of those functions were required to be exercised by the Administrator of the Federal Aviation Administration, as follows:

"(c)(1) There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Federal Aviation Agency, and of the Administrator and other officers and offices thereof, including the development and construction of a civil supersonic aircraft: *Provided, however,* That there are hereby transferred to the Federal Aviation Administrator, and it shall be his duty to exercise the functions, powers, and duties of the Secretary pertaining to aviation safety (other than those relating to the transportation, packing, marking, or description of hazardous materials) as set forth in sections 306, 307, 308, 309, 312, 313, 314, 1101, 1105, and 1111, and titles VI, VII, IX, and XII of the Federal Aviation Act of 1958, as amended. In exercising these enumerated functions, powers, and duties, the Administrator shall be guided by the declaration of policy in section 103 of the Federal Aviation Act of 1958, as amended. Decisions of the Federal Aviation Administrator made pursuant to the exercise of the functions, powers, and duties enumerated in this subsection to be exercised by the Administrator shall be administratively final, and appeals as authorized by law or this Act shall be taken directly to the National Transportation Safety Board or to the courts, as appropriate.

"(2) Nothing in this Act shall affect the power of the President under section 302(e) of the Federal Aviation Act of 1958 (72 Stat. 746, 49 U.S.C. 1343(c)) to transfer, to the Department of Defense in the event of war, any functions transferred by this Act from the Federal Aviation Agency."

Section 6(d) of the Department of Transportation Act transferred certain functions of the Civil Aeronautics Board to the Secretary of Transportation and required them to be exercised by the National Transportation Safety Board, as follows:

"(d) There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Civil Aeronautics Board,

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and of the Chairman, members, officers, and offices thereof under titles VI (72 Stat. 775; 5 U.S.C. 1421 et seq.) and VII (72 Stat. 781; 49 U.S.C. 1441 et seq.) of the Federal Aviation Act of 1958, as amended: *Provided, however,* That these functions, powers, and duties are hereby transferred to and shall be exercised by the National Transportation Safety Board. Decisions of the National Transportation Safety Board made pursuant to the exercise of the functions, powers, and duties enumerated in this subsection shall be administratively final, and appeals as authorized by law or this Act shall be taken directly to the courts."

* * * * *

The provisions of law relating to the organization and general powers and duties of the Department of Transportation are now contained in subtitle I of title 49, United States Code, which was enacted, without substantive change, as part of the codification of title 49 (Public Law 97-449; 96 Stat. 2413). Section 106 of title 49 relates to the Federal Aviation Administration.

* * * * *

The Civil Aeronautics Board ceased to exist on January 1, 1985, and all authority of the Board was terminated or transferred on or before that date.

Section 1601 of the Federal Aviation Act of 1958 (enacted by the Airline Deregulation Act of 1978 and amended by the Civil Aeronautics Board Sunset Act of 1984) sets forth the authorities of the Civil Aeronautics Board which were terminated and those which were transferred to other agencies.

GLENN M. ANDERSON, *Chairman.*

FEDERAL AVIATION ACT OF 1958



FEDERAL AVIATION ACT OF 1958 ¹

Public Law 85-726; 72 Stat. 737

49 U.S.C. App. 1301 et seq.

AN ACT To continue the Civil Aeronautics Board as an agency of the United States, to create a Federal Aviation Agency, to provide for the regulation and promotion of civil aviation in such manner as to best foster its development and safety, and to provide for the safe and efficient use of the airspace by both civil and military aircraft, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles and sections according to the following table of contents, may be cited as the "Federal Aviation Act of 1958":

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¹ For terminations and transfers of functions of the Civil Aeronautics Board made by the Airline Deregulation Act of 1978 and the Civil Aeronautics Board Sunset Act of 1984, see section 1601.

² Title II (other than section 204) ceased to be in effect on January 1, 1985. Section 1601(a)(3).

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¹ Amendment made by § 204(h) of Public Law 100-223, 101 Stat. 1521, was stated incorrectly. Heading for new subsection (r) was inserted according to probable intent of Congress.

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¹ So in law; should be set in lightface, not boldface.

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Sec. 1504. Separability.

Sec. 1505. Effective date.

TITLE XVI—SUNSET PROVISIONS

Sec. 1601. Termination of Civil Aeronautics Board and transfer of certain functions.

- (a) Termination of authority.
- (b) Transfer of certain authority.
- (c) Report and assessment by Board.
- (d) Elements for Board consideration.
- (e) Elements for each comprehensive review.

TITLE I—GENERAL PROVISIONS

DEFINITIONS

SEC. 101. As used in this Act, unless the context otherwise requires—

(1) "Administrator" means the Administrator of the Federal Aviation Agency.

(2) "Aeronautics" means the science and art of flight.

(3) "Air carrier" means any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage in air transportation: *Provided*, That the Board may by order relieve air carriers who are not directly engaged in the operation of aircraft in air transportation from the provisions of this Act to the extent and for such periods as may be in the public interest.

(4) "Air commerce" means interstate, overseas, or foreign air commerce or the transportation of mail by aircraft or any operation or navigation of aircraft within the limits of any Federal airway or any operation or navigation of aircraft which directly affects, or which may endanger safety in, interstate, overseas, or foreign air commerce.

(5) "Aircraft" means any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air.

(6) "Aircraft engine" means an engine used, or intended to be used, for propulsion of aircraft and includes all parts, appurtenances, and accessories thereof other than propellers.

(7) "Airman" means any individual who engages, as the person in command or as pilot, mechanic, or member of the crew, in the navigation of aircraft while under way; and (except to the extent the Administrator may otherwise provide with respect to individuals employed outside the United States) any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft, aircraft engines, propellers, or appliances; and any individual who serves in the capacity of aircraft dispatcher or air-traffic control-tower operator.

(8) "Air navigation facility" means any facility used in, available for use in, or designed for use in, aid of air navigation, including landing areas, lights, any apparatus or equipment for disseminating weather information, for signaling, for radio-directional finding, or for radio or other electrical communication, and any other structure or mechanism having a similar purpose for guiding or controlling flight in the air or the landing and take-off of aircraft.

(9) "Airport" means a landing area used regularly by aircraft for receiving or discharging passengers or cargo.

(10) "Air transportation" means interstate, overseas, or foreign air transportation or the transportation of mail by aircraft.

(11) "All-cargo air service" means the carriage by aircraft in interstate or overseas air transportation of only property or mail, or both.

(12) "Appliances" means instruments, equipment, apparatus, parts, appurtenances, or accessories, of whatever description, which are used, or are capable of being or intended to be used, in the navigation, operation, or control of aircraft in flight (including parachutes and including communication equipment and any other mechanism or mechanisms installed in or attached to aircraft during flight), and which are not a part or parts of aircraft, aircraft engines, or propellers.

(13) "Board" means the Civil Aeronautics Board.

(14) "Charter air carrier" means an air carrier holding a certificate of public convenience and necessity authorizing it to engage in charter air transportation.

(15) "Charter air transportation" means charter trips, including inclusive tour charter trips, in air transportation, rendered pursuant to authority conferred under this Act under regulations prescribed by the Board.

(16) "Citizen of the United States" means (a) an individual who is a citizen of the United States or of one of its possessions, or (b) a partnership of which each member is such an individual, or (c) a corporation or association created or organized under the laws of the United States or of any State, Territory, or possession of the United States, of which the president and two-thirds or more of the board of directors and other managing officers thereof are such individuals and in which at least 75 per centum of the voting interest is owned or controlled by persons who are citizens of the United States or of one of its possessions.

(17) "Civil aircraft" means any aircraft other than a public aircraft.

(18) "Civil aircraft of the United States" means any aircraft registered as provided in this Act.

(19) "Conditional sale" means (a) any contract for the sale of an aircraft, aircraft engine, propeller, appliance, or spare part under which possession is delivered to the buyer and the property is to vest in the buyer at a subsequent time, upon the payment of part or all of the price, or upon the performance of any other condition or the happening of any contingency; or (b) any contract for the bailment or leasing of an aircraft, aircraft engine, propeller, appliance, or spare part, by which the bailee or lessee contracts to pay as compensation a sum substantially equivalent to the value thereof, and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner thereof upon full compliance with the terms of the contract. The buyer, bailee, or lessee shall be deemed to be the person by whom any such contract is made or given.

(20) "Conveyance" means a bill of sale, contract of conditional sale, mortgage, assignment of mortgage, or other instrument affecting title to, or interest in, property.

(21) "Federal airway" means a portion of the navigable airspace of the United States designated by the Administrator as a Federal airway.

(22) "Foreign air carrier" means any person, not a citizen of the United States, who undertakes, whether directly or indirectly or by lease or any other arrangement, to engage in foreign air transportation.

(23) "Interstate air commerce", "overseas air commerce", and "foreign air commerce", respectively, mean the carriage by aircraft of persons or property for compensation or hire, or the carriage of mail by aircraft, or the operation or navigation of aircraft in the conduct or furtherance of a business or vocation, in commerce between, respectively—

(a) a place in any State of the United States, or the District of Columbia, and a place in any other State of the United

States, or the District of Columbia; or between places in the same State of the United States through the airspace over any place outside thereof; or between places in the same Territory or possession of the United States, or the District of Columbia;

(b) a place in any State of the United States, or the District of Columbia, and any place in a Territory or possession of the United States; or between a place in a Territory or possession of the United States, and a place in any other Territory or possession of the United States; and

(c) a place in the United States and any place outside thereof;

whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

(24) "Interstate air transportation", "overseas air transportation", and "foreign air transportation", respectively, mean the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft, in commerce between, respectively—

(a) a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia; or between places in the same State of the United States through the airspace over any place outside thereof; or between places in the same Territory or possession of the United States, or the District of Columbia;

(b) a place in any State of the United States, or the District of Columbia, and any place in a Territory or possession of the United States; or between a place in a Territory or possession of the United States, and a place in any other Territory or possession of the United States; and

(c) a place in the United States and any place outside thereof;

whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

(25) "Intrastate air carrier" means any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage solely in intrastate air transportation.

(26) "Intrastate air transportation" means the carriage of persons or property as a common carrier for compensation or hire, by turbojet-powered aircraft capable of carrying thirty or more persons, wholly within the same State of the United States.

(27) "Landing area" means any locality, either of land or water, including airports and intermediate landing fields, which is used, or intended to be used, for the landing and take-off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo.

(28) "Mail" means United States mail and foreign-transit mail.

(29) "Navigable airspace" means airspace above the minimum altitudes of flight prescribed by regulations issued under this Act, and shall include airspace needed to insure safety in take-off and landing of aircraft.

(30) "Navigation of aircraft" or "navigate aircraft" includes the piloting of aircraft.

(31) "Operation of aircraft" or "operate aircraft" means the use of aircraft, for the purpose of air navigation and includes the navigation of aircraft. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control (in the capacity of owner, lessee, or otherwise) of the aircraft, shall be deemed to be engaged in the operation of aircraft within the meaning of this Act.

(32) "Person" means any individual, firm, copartnership, corporation, company, association, joint-stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

(33) "Propeller" includes all parts, appurtenances, and accessories thereof.

(34) "Possessions of the United States" means (a) the Canal Zone, but nothing herein shall impair or affect the jurisdiction which has heretofore been, or may hereafter be, granted to the President in respect of air navigation in the Canal Zone; and (b) all other possessions of the United States. Where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, references in this Act to possessions of the United States shall be treated as also referring to the Commonwealth of Puerto Rico.

(35) "Predatory" means any practice which would constitute a violation of the antitrust laws as set forth in the first section of the Clayton Act (15 U.S.C. 12).

(36) "Public aircraft" means any aircraft used exclusively in the service of any government or of any political subdivision thereof, including the government of any State, Territory, or possession of the United States, or the District of Columbia, but not including any government-owned aircraft engaged in carrying persons or property for commercial purposes. For purposes of this paragraph, "used exclusively in the service of" means, for other than the Federal Government, an aircraft which is owned and operated by a governmental entity for other than commercial purposes or which is exclusively leased by such governmental entity for not less than 90 continuous days.

(37) "Spare parts" means parts, appurtenances, and accessories of aircraft (other than aircraft engines and propellers), of aircraft engines (other than propellers), of propellers and of appliances, maintained for installation or use in an aircraft, aircraft engine, propeller, or appliance, but which at the time are not installed therein or attached thereto.

(38) The term "special aircraft jurisdiction of the United States" includes—

(a) civil aircraft of the United States;

(b) aircraft of the national defense forces of the United States;

(c) any other aircraft within the United States;

(d) any other aircraft outside the United States—

(i) that has its next scheduled destination or last point of departure in the United States, if that aircraft next actually lands in the United States;

(ii) having "an offense", as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, committed aboard, if that aircraft lands in the United States with the alleged offender still aboard; or

(iii) regarding which an offense as defined in subsection (d) or (e) of article I, section I of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, September 23, 1971) is committed if the aircraft lands in the United States with an alleged offender still on board; and

(e) other aircraft leased without crew to a lessee who has his principal place of business in the United States, or if none, who has his permanent residence in the United States;

while that aircraft is in flight, which is from the moment when all external doors are closed following embarkation until the moment when one such door is opened for disembarkation or in the case of a forced landing, until the competent authorities take over the responsibility for the aircraft and for the persons and property aboard.

(39) "State agency" means that department, agency, officer, or other entity of a State government which has been designated according to State law as—

(A) the recipient of any notice required under title IV of this Act to be given to a State agency; or

(B) the representative of the State in any matter about which the Board is required, under such title IV, to consult with or consider the views of a State agency.

(40) "Ticket agent" means any person, not an air carrier or a foreign air carrier and not a bona fide employee of an air carrier or foreign air carrier, who, as principal or agent, sells or offers for sale any air transportation, or negotiates for, or holds himself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts or arranges for, such transportation.

(41) "United States" means the several States, the District of Columbia, and the several Territories and possessions of the United States, including the territorial waters and the overlying airspace thereof. [49 U.S.C. App. 1301]

DECLARATION OF POLICY: THE BOARD

FACTORS FOR INTERSTATE, OVERSEAS, AND FOREIGN AIR TRANSPORTATION

SEC. 102. (a) In the exercise and performance of its powers and duties under this Act, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

(1) The assignment and maintenance of safety as the highest priority in air commerce, and prior to the authorization of new air transportation services, full evaluation of the recommendations of the Secretary of Transportation on the safety implications of such new services and full evaluation of any report or recommendation submitted under section 107 of this Act.

(2) The prevention of any deterioration in established safety procedures, recognizing the clear intent, encouragement, and dedication of the Congress to the furtherance of the highest degree of safety in air transportation and air commerce, and the maintenance of the safety vigilance that has evolved within air transportation and air commerce and has come to be expected by the traveling and shipping public.

(3) The availability of a variety of adequate, economic, efficient, and low-price services by air carriers and foreign air carriers without unjust discriminations, undue preferences or advantages, or unfair or deceptive practices, the need to improve relations among, and coordinate transportation by, air carriers, and the need to encourage fair wages and equitable working conditions for air carriers.

(4) The placement of maximum reliance on competitive market forces and on actual and potential competition (A) to provide the needed air transportation system, and (B) to encourage efficient and well-managed carriers to earn adequate profits and to attract capital, taking account, nevertheless, of material differences, if any, which may exist between interstate and overseas air transportation, on the one hand, and foreign air transportation, on the other.

(5) The development and maintenance of a sound regulatory environment which is responsive to the needs of the public and in which decisions are reached promptly in order to facilitate adaption of the air transportation system to the present and future needs of the domestic and foreign commerce of the United States, the Postal Service,¹ and the national defense.

(6) The encouragement of air service at major urban areas in the United States through secondary or satellite airports, where consistent with regional airport plans of regional and local authorities, and when such encouragement is endorsed by appropriate State entities encouraging such service by air carriers whose sole responsibility in any specific market is to provide service exclusively at the secondary or satellite airport, and fostering an environment which reasonably enables such carriers to establish themselves and to develop their secondary or satellite airport services.

(7) The prevention of unfair, deceptive, predatory, or anti-competitive practices in air transportation, and the avoidance of—

(A) unreasonable industry concentration, excessive market domination, and monopoly power; and

(B) other conditions;

that would tend to allow one or more air carriers or foreign air carriers unreasonably to increase prices, reduce services, or exclude competition in air transportation.

(8) The maintenance of a comprehensive and convenient system of continuous scheduled interstate and overseas airline service for small communities and for isolated areas in the

¹ Now the United States Postal Service. Public Law 91-375, § 6(o), 84 Stat. 783.

United States, with direct Federal assistance where appropriate.

(9) The encouragement, development, and maintenance of an air transportation system relying on actual and potential competition to provide efficiency, innovation, and low prices, and to determine the variety, quality, and price of air transportation services.

(10) The encouragement of entry into air transportation markets by new air carriers, the encouragement of entry into additional air transportation markets by existing air carriers, and the continued strengthening of small air carriers so as to assure a more effective, competitive airline industry.

(11) The promotion, encouragement, and development of civil aeronautics and a viable, privately owned United States air transport industry.

(12) The strengthening of the competitive position of United States air carriers to at least assure equality with foreign air carriers, including the attainment of opportunities for United States air carriers to maintain and increase their profitability, in foreign air transportation.

FACTORS FOR ALL-CARGO AIR SERVICE

(b) In addition to the declaration of policy set forth in subsection (a) of this section, the Board, in the exercise and performance of its powers and duties under this Act with respect to all-cargo air service shall consider the following, among other things, as being in the public interest:

(1) The encouragement and development of an expedited all-cargo air service system, provided by private enterprise, responsive to (A) the present and future needs of shippers, (B) the commerce of the United States, and (C) the national defense.

(2) The encouragement and development of an integrated transportation system relying upon competitive market forces to determine the extent, variety, quality, and price of such services.

(3) The provision of services without unjust discriminations, undue preferences or advantages, unfair or deceptive practices, or predatory pricing. [49 U.S.C. App. 1302]

DECLARATION OF POLICY: THE ADMINISTRATOR

SEC. 103. In the exercise and performance of his powers and duties under this Act the Administrator shall consider the following, among other things, as being in the public interest:

(1) The regulation of air commerce in such manner as to best promote its development and safety and fulfill the requirements of national defense.

(2) The promotion, encouragement, and development of civil aeronautics.

(3) The control of the use of the navigable airspace of the United States and the regulation of both civil and military operations in such airspace in the interest of the safety and efficiency of both.

(4) The consolidation of research and development with respect to air navigation facilities, as well as the installation and operation thereof.

(5) The development and operation of a common system of air traffic control and navigation for both military and civil aircraft.

(6) The provision of assistance to law enforcement agencies in the enforcement of laws relating to the regulation of controlled substances, to the extent consistent with aviation safety. [49 U.S.C. App. 1303]

PUBLIC RIGHT OF TRANSIT

SEC. 104. There is hereby recognized and declared to exist in behalf of any citizen of the United States a public right of freedom of transit through the navigable airspace of the United States. In the furtherance of such right, the Board or the Secretary, as the case may be, shall consult with the Architectural and Transportation Barriers Compliance Board established under section 502 of the Rehabilitation Act of 1973, prior to issuing or amending any order, rule, regulation, or procedure that will have a significant impact on the accessibility of commercial airports or commercial air transportation for handicapped persons. [49 U.S.C. App. 1304]

FEDERAL PREEMPTION

PREEMPTION

SEC. 105. (a)(1) Except as provided in paragraph (2) of this subsection, no State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to rates, routes, or services of any air carrier having authority under title IV of this Act to provide air transportation.

(2) Except with respect to air transportation (other than charter air transportation) provided pursuant to a certificate issued by the Board under section 401 of this Act, the provisions of paragraph (1) of this subsection shall not apply to any transportation by air of persons, property, or mail conducted wholly within the State of Alaska.

PROPRIETARY POWERS AND RIGHTS

(b)(1) Nothing in subsection (a) of this section shall be construed to limit the authority of any State or political subdivision thereof or any interstate agency or other political agency of two or more States as the owner or operator of an airport served by any air carrier certificated by the Board to exercise its proprietary powers and rights.

(2) Any aircraft operated between points in the same State (other than the State of Hawaii) which in the course of such operation crosses a boundary between two States, or between the United States and any other country, or between a State and the beginning of the territorial waters of the United States, shall not, by

reason of crossing such boundary, be considered to be operating in interstate or overseas air transportation.

EXISTING STATE AUTHORITY

(c) When any intrastate air carrier which on August 1, 1977, was operating primarily in intrastate air transportation regulated by a State receives the authority to provide interstate air transportation, any authority received from such State shall be considered to be part of its authority to provide air transportation received from the Board under title IV of this Act, until modified, suspended, amended, or terminated as provided under such title.

DEFINITION

(d) For purposes of this section, the term "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and any territory or possession of the United States. [49 U.S.C. App. 1305]

REPORT ON SUBSIDY COST-SHARING

SEC. 106. Not later than January 1, 1980, the Board and the Secretary of Transportation, shall, separately or jointly, submit a comprehensive report to the Congress on the feasibility and appropriateness of devising formulas by which States and their political subdivisions could share part of the costs being incurred by the United States under sections 406 and 419 of this Act. Such report shall include any recommendations of the Board and the Secretary for the implementation of such cost-sharing formulas. [49 U.S.C. App. 1306]

SAFETY STUDY

POLICY

SEC. 107. (a) The Congress intends that the implementation of the Airline Deregulation Act of 1978 result in no diminution of the high standard of safety in air transportation attained in the United States at the time of the enactment of such Act.

REPORT

(b) Not later than January 31, 1980, and each April 1 thereafter, the Secretary of Transportation shall prepare and submit to the Congress and the Board a comprehensive annual report on the extent to which the implementation of the Airline Deregulation Act of 1978 has affected, during the preceding calendar year, or will affect, in the succeeding calendar year, the level of air safety. Each such report shall, at a minimum, contain an analysis of each of the following:

(1) All relevant data on accidents and incidents occurring during the calendar year covered by such report in air transportation and on violations of safety regulations issued by the Secretary of Transportation occurring during such calendar year.

(2) Current and anticipated personnel requirements of the Administrator with respect to enforcement of air safety regulations.

(3) Effects on current levels of air safety of changes or proposals for changes in air carrier operating practices and procedures which occurred during the calendar year covered by such report.

(4) The adequacy of air safety regulations taking into consideration changes in air carrier operating practices and procedures which occurred during the calendar year covered by such report.

Based on such report, the Secretary shall take those steps necessary to ensure that the high standard of safety in air transportation referred to in subsection (a) of this section is maintained in all aspects of air transportation in the United States.¹

¹ Section 317 of the Department of Transportation and Related Agencies Appropriations Act, 1988 (P.L. 100-202, 101 Stat. 1329-380-381; 49 U.S.C. 308 note) reads as follows:

SEC. 317. (a) SAFETY ENFORCEMENT PROGRAM PERFORMANCE.—The Secretary of Transportation shall on or before January 1 of each year transmit to the Congress a comprehensive report on the Federal Aviation Administration's prior fiscal year safety enforcement activities. The report shall include:

(1) a comparison of end-of-year staffing levels by inspector category (operations, maintenance, avionics) to staffing goals and a statement as to how staffing standards were applied to make allocations between air carrier and general aviation operations, maintenance and avionics inspectors;

(2) schedules showing the range of inspector experience by various inspector work force categories, and the number of inspectors in each of the categories who are considered fully qualified;

(3) schedules showing the number and percentage of inspectors who have received mandatory training by individual course, and the number of inspectors, by work force categories, who have received all mandatory training;

(4) a description of the criteria used to set annual work programs, an explanation of how these criteria differ from criteria used in the prior fiscal year and how the annual work programs ensure compliance with appropriate Federal regulations and safe operating practices;

(5) a comparison of actual inspections performed during the fiscal year to the annual work programs disaggregated to the field locations and, for any field location completing less than 80 percent of its planned number of inspections, an explanation as to why annual work program plans were not met;

(6) a statement of the adequacy of Federal Aviation Administration internal management controls available to ensure that field managers are complying with Federal Aviation Administration policies and procedures including those regarding inspector priorities, district office coordination, minimum inspection standards, and inspection follow-up;

(7) the status of the Federal Aviation Administration's efforts to update inspector guidance documents and Federal regulations to include technological, management, and structural changes taking place within the aviation industry, including a listing of the backlog of all proposed regulatory changes;

(8) a list of the specific operational measures of effectiveness—"best proxies" standing between the ultimate goal of accident prevention and ongoing program activities—that are being used to evaluate progress in meeting program objectives, the quality of program delivery, and the nature of emerging safety problems;

(9) a schedule showing the number of civil penalty cases closed during the two prior fiscal years, including total initial assessments, total final assessments, total dollar amount collected, range of dollar amount collected, average case processing time, and range of case processing time;

(10) a schedule showing the number of enforcement actions taken, excluding civil penalties, during the two prior fiscal years, including total number of violations cited, and the number of cited violation cases closed by certificate suspension, certification revocations, warnings, and no action taken; and

(11) schedules showing the aviation industry's safety record during the fiscal year for air carriers and general aviation, including the number of inspections performed where deficiencies were identified compared with inspections where no deficiencies were found and the frequency of safety deficiencies per carrier as well as an analysis based on the data of the general status of air carrier and general aviation compliance with Federal Aviation Regulations.

(b) LONG-RANGE NATIONAL TRANSPORTATION STRATEGIC PLANNING STUDY.—The Department of Transportation shall undertake a long-range, multi-modal national transportation strategic

Continued

RECOMMENDATIONS

(c) Not later than January 31, 1980, and each April 1 thereafter, the Secretary of Transportation shall submit to the Congress and the Board recommendations with respect to the level of surveillance necessary to enforce air safety regulations and the level of staffing necessary to carry out such surveillance. The Secretary of Transportation's recommendations shall include proposals for any legislation needed to implement such recommendations.

REGULATIONS AND INSPECTION PROCEDURES

(d) Not later than July 1, 1979, the Secretary of Transportation shall complete a thorough review, and submit a report thereon to the appropriate authorizing committees of the Congress and to the Administrator, of the safety regulations and inspection procedures applicable to each class of air carriers subject to the provisions of title IV of this Act, in order to ensure that all classes of air carriers are providing the highest possible level of safe, reliable air transportation to all the communities served by those air carriers. Based on such review, the Administrator shall promulgate such safety regulations and establish such inspection procedures as the Administrator deems necessary to maintain the highest standard of safe, reliable air transportation in the United States. [49 U.S.C. App. 1307]

REPORT ON AIR CARRIER MARKETING OF TOURS

SEC. 108. Not later than May 1, 1979, the Board shall prepare and submit a report to the Congress which sets forth the recommendations of the Board on whether this Act and regulations of the Board should be amended to permit air carriers to sell tours directly to the public and to acquire control of persons authorized to sell tours to the public. The report shall evaluate the effects on the following groups of allowing air carriers to sell tours:

- (1) The traveling public.
- (2) The independent tour operator industry.
- (3) The travel agent industry.
- (4) The different classes of air carriers. [49 U.S.C. App. 1308]

TITLE II—CIVIL AERONAUTICS BOARD; GENERAL POWERS OF BOARD¹

GENERAL POWERS AND DUTIES OF THE BOARD

GENERAL POWERS

SEC. 204. (a) The Board is empowered to perform such acts, to conduct such investigations, to issue and amend such orders, and to

planning study. This study shall forecast long-term needs and costs for developing and maintaining facilities and services to achieve a desired national transportation program for moving people and goods in the year 2015. The study shall include detailed analyses of transportation needs within six to nine metropolitan areas that have diverse population, development, and demographic patterns, including at least one interstate metropolitan area. This study shall be submitted to Congress on or before October 1, 1989.

¹ Title II (other than Section 204) ceased to be in effect January 1, 1985. Section 1601(a)(3) of this Act.

make and amend such general or special rules, regulations, and procedure, pursuant to and consistent with the provisions of this Act, as it shall deem necessary to carry out the provisions of, and to exercise and perform its powers and duties under, this Act.

COOPERATION WITH STATE AERONAUTICAL AGENCIES

(b) The Board is empowered to confer with or to hold joint hearings with any State aeronautical agency, or other State agency, in connection with any matter arising under this Act within its jurisdiction, and to avail itself of the cooperation, services, records, and facilities of such State agencies as fully as may be practicable in the administration and enforcement of this Act.

EXCHANGE OF INFORMATION

(c) The Board is empowered to exchange with foreign governments, through appropriate agencies of the United States, information pertaining to aeronautics.

PUBLICATIONS

(d) Except as may be otherwise provided in this Act, the Board shall make a report in writing in all proceedings and investigations under this Act in which formal hearings have been held, and shall state in such report its conclusions together with its decision, order, or requirement in the premises. All such reports shall be entered for record and a copy thereof shall be furnished to all parties to the proceeding or investigation. The Board shall provide for the publication of such reports, and all other reports, orders, decisions, rules, and regulations issued by it under this Act in such form and manner as may be best adapted for public information and use. Publications purporting to be published by the Board shall be competent evidence of the orders, decisions, rules, regulations, and reports of the Board therein contained in all courts of the United States, and of the several States, Territories, and possessions thereof, and the District of Columbia, without further proof or authentication thereof. [49 U.S.C. App. 1324]

TITLE III—ORGANIZATION OF AGENCY AND POWERS AND DUTIES OF ADMINISTRATOR

CREATION OF AGENCY

SEC. 301. [(a)-(b) Repealed. Public Law 97-449, §7; 96 Stat. 2444; now covered by 49 U.S.C. §106.]

PRINCIPAL OFFICE AND SEAL

(c) The principal office of the Agency shall be in or near the District of Columbia, but it may act and exercise all its powers at any other place. The Agency shall have an official seal which shall be judicially noticed. [49 U.S.C. App. 1341]

ORGANIZATION OF AGENCY

SEC. 302. [(a)-(b) Repealed. Public Law 97-449, § 7; 96 Stat. 2444; now covered by 49 U.S.C. § 106]

[(c) Repealed. Public Law 97-449, § 7; 96 Stat. 2444; now covered by 49 U.S.C. § 106 and § 324]

[(d) Repealed. Public Law 97-449, § 7; 96 Stat. 2444; now covered by 49 U.S.C. § 329]

EMERGENCY STATUS

—(e) The Administrator shall develop, in consultation with the Department of Defense and other affected Government agencies, plans for the effective discharge of the responsibilities of the Agency in the event of war, and shall propose to Congress on or before January 1, 1960, legislation for such purpose: *Provided*, That in the event of war the President by Executive order may transfer to the Department of Defense any functions (including powers, duties, activities, facilities, and parts of functions) of the Agency prior to enactment of such proposed legislation. In connection with any such transfer, the President may provide for appropriate transfers of records, property, and personnel.

[(f) Repealed. Public Law 97-449, § 7; 96 Stat. 2444; now covered by 49 U.S.C. § 323]

STUDY OF SPECIAL PERSONNEL PROBLEMS

(g) The Administrator shall make a study, in consultation with other affected Government agencies, of personnel problems inherent in the functions of the Agency, giving due consideration to the need for (1) special qualifications and training, (2) special provisions as to pay, retirement, and hours of service, and (3) special provisions to assure availability, responsiveness, and security status of essential personnel in fulfilling national defense requirements, and shall report the results thereof, and make recommendations for legislation thereon, to Congress on or before January 1, 1960.

[(h) Repealed. Public Law 97-449, § 7; 96 Stat. 2444; now covered by 49 U.S.C. § 323]

[(i) Repealed. Public Law 97-449, § 7; 96 Stat. 2444; now covered by 49 U.S.C. § 323 and § 325]

[(j) Repealed. Public Law 87-367, § 103(2); 75 Stat. 787]

[(k) Repealed. Public Law 97-449, § 7; 96 Stat. 2444; now covered by 49 U.S.C. § 322]

ADMINISTRATION OF THE AGENCY

SEC. 303. [(a) Repealed. Public Law 97-449, § 7; 96 Stat. 2444; now covered by 49 U.S.C. § 322]

[(b) Repealed. Public Law 97-449, § 7; 96 Stat. 2444; now covered by 49 U.S.C. § 331]

ACQUISITION AND DISPOSAL OF PROPERTY

(c) The Administrator, on behalf of the United States, is authorized, where appropriate:¹ (2) within the limits of available appropriations made by the Congress therefor, to acquire by purchase, condemnation, lease, or otherwise, real property or interests therein, including, in the case of air navigation facilities (including airports) owned by the United States and operated under the direction of the Administrator, easements through or other interests in airspace immediately adjacent thereto and needed in connection therewith: *Provided*, That the authority herein granted shall not include authority for the acquisition of space in buildings for use by the Federal Aviation Agency, suitable accommodations for which shall be provided by the Administrator of General Services, unless the Administrator of General Services determines, pursuant to section 1(d) of Reorganization Plan Numbered 18, 1950 (64 Stat. 1270; 5 U.S.C. 133z-15 note), that the space to be acquired is to be utilized for the special purposes of the Federal Aviation Agency and is not generally suitable for the use of other agencies; (3) for adequate compensation, by sale, lease, or otherwise, to dispose of any real or personal property or interest therein: *Provided*, That, except for airport and airway property and technical equipment used for the special purposes of the Agency, such disposition shall be made in accordance with the Federal Property and Administrative Services Act of 1949, as amended; and (4) to construct, improve, or renovate laboratories and other test facilities and to purchase or otherwise acquire real property required therefor. Any such acquisition by condemnation may be made in accordance with the provisions of the Act of August 1, 1888 (40 U.S.C. 257; 25 Stat. 357), the Act of February 26, 1931 (40 U.S.C. 258a-258e; 46 Stat. 1421), or any other applicable Act: *Provided*, That in the case of condemnations of easements through or other interests in airspace, in fixing condemnation awards, consideration may be given to the reasonable probable future use of the underlying land. [49 U.S.C. App. 1344]

[(d) and (e) Repealed. Public Law 97-449, § 7; 96 Stat. 2444; now covered by 49 U.S.C. § 322, except that language in (d) after the semicolon now covered by the last sentence of section 307(b) of this Act.]

AUTHORITY OF PRESIDENT TO TRANSFER CERTAIN FUNCTIONS

SEC. 304. The President may transfer to the Administrator any functions (including powers, duties, activities, facilities, and parts of functions) of the executive departments or agencies of the Government or of any officer or organizational entity thereof which relate primarily to selecting, developing, testing, evaluating, establishing, operating and maintaining systems, procedures, facilities, or devices for safe and efficient air navigation and air traffic control. In connection with any such transfer, the President may provide for appropriate transfers of records, property, and for necessary civilian and military personnel to be made available from the

¹ (c)(1) Repealed. Public Law 97-449, § 7; 96 Stat. 2444; now covered by 49 U.S.C. § 326.

other office, department, or other agency from which the transfer is made. [49 U.S.C. App. 1345]

FOSTERING OF AIR COMMERCE

SEC. 305. The Administrator is empowered and directed to encourage and foster the development of civil aeronautics and air commerce in the United States and abroad. [49 U.S.C. App. 1346]

NATIONAL DEFENSE AND CIVIL NEEDS

SEC. 306. In exercising the authority granted in, and discharging the duties imposed by, this Act, the Administrator shall give full consideration to the requirements of national defense, and of commercial and general aviation, and to the public right of freedom of transit through the navigable airspace. [49 U.S.C. App. 1347]

AIRSPACE CONTROL AND FACILITIES

USE OF AIRSPACE

SEC. 307. (a) The Administrator is authorized and directed to develop plans for and formulate policy with respect to the use of the navigable airspace; and assign by rule, regulation, or order the use of the navigable airspace under such terms, conditions, and limitations as he may deem necessary in order to insure the safety of aircraft and the efficient utilization of such airspace. He may modify or revoke such assignment when required in the public interest.

AIR NAVIGATION FACILITIES

(b) The Administrator is authorized, within the limits of available appropriations made by the Congress, (1) to acquire, establish, and improve air-navigation facilities wherever necessary; (2) to operate and maintain such air-navigation facilities; (3) to arrange for publication of aeronautical maps and charts necessary for the safe and efficient movement of aircraft in air navigation utilizing the facilities and assistance of existing agencies of the Government so far as practicable; and (4) to provide necessary facilities and personnel for the regulation and protection of air traffic. The Secretary may, subject to such regulations, supervision, and review as he may prescribe, from time to time make such provision as he shall deem appropriate authorizing the performance by a Federal department or agency, with the consent of the department or agency, of any function under this subsection.

AIR TRAFFIC RULES

(c) The Administrator is further authorized and directed to prescribe air traffic rules and regulations governing the flight of aircraft, for the navigation, protection, and identification of aircraft, for the protection of persons and property on the ground, and for the efficient utilization of the navigable airspace, including rules as to safe altitudes of flight and rules for the prevention of collision between aircraft, between aircraft and land or water vehicles, and between aircraft and airborne objects.

APPLICABILITY OF ADMINISTRATIVE PROCEDURE ACT

(d) In the exercise of the rulemaking authority under subsections (a) and (c) of this section, the Administrator shall be subject to the provisions of the Administrative Procedure Act,¹ notwithstanding any exception relating to military or naval functions in section 4 thereof.²

EXEMPTIONS

(e) The Administrator from time to time may grant exemptions from the requirements of any rule or regulation prescribed under this title if he finds that such action would be in the public interest.

EXCEPTION FOR MILITARY EMERGENCIES

(f) When it is essential to the defense of the United States because of a military emergency or urgent military necessity, and when appropriate military authority so determines, and when prior notice thereof is given to the Administrator, such military authority may authorize deviation by military aircraft of the national defense forces of the United States from air traffic rules issued pursuant to this title. Such prior notice shall be given to the Administrator at the earliest time practicable and, to the extent time and circumstances permit, every reasonable effort shall be made to consult fully with the Administrator and to arrange in advance for the required deviation from the rules on a mutually acceptable basis. [49 U.S.C. App. 1348]

EXPENDITURE OF FEDERAL FUNDS FOR CERTAIN AIRPORTS, ETC.

AIRPORTS FOR OTHER THAN MILITARY PURPOSES

SEC. 308. (a) No Federal funds, other than those expended under this Act, shall be expended, other than for military purposes (whether or not in cooperation with State or other local governmental agencies), for the acquisition, establishment, construction, alteration, repair, maintenance, or operation of any landing area, or for the acquisition, establishment, construction, maintenance, or operation of air navigation facilities thereon, except upon written recommendation and certification by the Administrator that such landing area or facility is reasonably necessary for use in air commerce or in the interests of national defense. Any interested person may apply to the Administrator, under regulations prescribed by him, for such recommendation and certification with respect to any landing area or air navigation facility proposed to be established, constructed, altered, repaired, maintained, or operated by, or in the interests of, such person. There shall be no exclusive right for the use of any landing area or air navigation facility upon which Federal funds have been expended. For purposes of the preceding sentence, the providing of services at an airport by a single fixed-based

¹ Subchapter II of chapter 5 and chapter 7 of title 5, United States Code. Public Law 89-554 §7(b), 80 Stat. 631.

² Section 553 of title 5, United States Code.

operator shall not be construed as an exclusive right if it would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and if allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport.

LOCATION OF AIRPORTS, LANDING AREAS, AND MISSILE AND ROCKET SITES

(b) In order to assure conformity to plans and policies for allocations of airspace by the Administrator under section 307 of this Act, no military airport or landing area, or missile or rocket site shall be acquired, established, or constructed, or any runway layout substantially altered, unless reasonable prior notice thereof is given the Administrator so that he may advise with the appropriate committees of the Congress and other interested agencies as to the effects of such acquisition, establishment, construction, or alteration on the use of airspace by aircraft. In case of a disagreement between the Administrator and the Department of Defense or the National Aeronautics and Space Administration the matter may be appealed to the President for final determination. [49 U.S.C. App. 1349]

OTHER AIRPORTS

SEC. 309. In order to assure conformity to plans and policies for, and allocations of, airspace by the Administrator under section 307 of this Act, no airport or landing area not involving expenditure of Federal funds shall be established, or constructed, or any runway layout substantially altered unless reasonable prior notice thereof is given the Administrator, pursuant to regulations prescribed by him, so that he may advise as to the effects of such construction on the use of airspace by aircraft. [49 U.S.C. App. 1350]

METEOROLOGICAL SERVICE

SEC. 310. The Administrator is empowered and directed to make recommendations to the Secretary of Commerce for providing meteorological service necessary for the safe and efficient movement of aircraft in air commerce. In providing meteorological services, the Secretary of Commerce shall cooperate with the Administrator and give full consideration to such recommendations. [49 U.S.C. App. 1351]

SEC. 311. [Repealed. Public Law 97-449, §7; 96 Stat. 2444; now covered by 49 U.S.C. §329]

DEVELOPMENT PLANNING

GENERAL

SEC. 312. (a) The Administrator is directed to make long range plans for and formulate policy with respect to the orderly development and use of the navigable airspace, and the orderly development and location of landing areas, Federal airways, radar installa-

tions and all other aids and facilities for air navigation, as will best meet the needs of, and serve the interest of civil aeronautics and national defense, except for those needs of military agencies which are peculiar to air warfare and primarily of military concern.

AIRCRAFT

(b) The Administrator is empowered to undertake or supervise such developmental work and service testing as tends to the creation of improved aircraft, aircraft engines, propellers, and appliances. The Administrator shall undertake or supervise research to develop technologies and to conduct data analyses for predicting the effects of aircraft design, maintenance, testing, wear, and fatigue on the life of aircraft and on air safety, to develop methods of analyzing and improving aircraft maintenance technology and practices (including nondestructive evaluation of aircraft structures), to assess the fire and smoke resistance of aircraft materials, to develop improved fire and smoke resistant materials for aircraft interiors, to develop and improve fire and smoke containment systems for inflight aircraft fires, and to develop advanced aircraft fuels with low flammability and technologies for containment of aircraft fuels for the purpose of minimizing post-crash fire hazards. For such purpose, the Administrator is empowered to make purchases (including exchange) by negotiation, or otherwise, of experimental aircraft, aircraft engines, propellers, and appliances, which seem to offer special advantages to aeronautics.

RESEARCH AND DEVELOPMENT

(c) The Administrator shall develop, modify, test, and evaluate systems, procedures, facilities, and devices, as well as define the performance characteristics thereof, to meet the needs for safe and efficient navigation and traffic control of all civil and military aviation except for those needs of military agencies which are peculiar to air warfare and primarily of military concern, and select such systems, procedures, facilities, and devices as will best serve such need and will promote maximum coordination of air traffic control and air defense systems. The Administrator shall undertake or supervise research to develop a better understanding of the relationship between human factors and aviation accidents and between human factors and air safety, to enhance air traffic controller and mechanic and flight crew performance, to develop a human-factor analysis of the hazards associated with new technologies to be used by air traffic controllers, mechanics, and flight crews, and to identify innovative and effective corrective measures for human errors which adversely affect air safety. The Administrator shall undertake or supervise a research program to develop dynamic simulation models of the air traffic control system and airport design and operating procedures which will provide analytical technology for predicting airport and air traffic control safety and capacity problems, for evaluating planned research projects, and for testing proposed revisions in airport and air traffic control operations programs. Contracts may be entered into for this purpose without regard to section 3643 of the Revised Statutes, as amended (31 U.S.C. 529). When there is any substantial question as to whether a

matter is of primary concern to the military, the Administrator is authorized and directed to determine whether he or the appropriate military agency shall have responsibility. Technical information concerning any research and development projects of the military agencies which have potential application to the needs of, or possible conflict with, the common system shall be furnished to the Administrator to the maximum extent necessary to insure that common system application potential is properly considered and potential future conflicts with the common system are eliminated.

RESEARCH PLAN AND REPORTS

(d)(1) The Administrator shall prepare, review, revise, publish, and transmit a national aviation research plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives not later than the date of the submission to Congress of the President's budget for fiscal year 1990, and for each fiscal year thereafter. The plan shall describe, for a 15-year period, the research, engineering, and development considered by the Administrator necessary to ensure the continued capacity, safety, and efficiency of aviation in the United States, considering emerging technologies and forecasted needs of civil aeronautics, and provide the highest degree of safety in air travel. The plan shall cover all research conducted under this section and section 316 of this Act and shall identify complementary and coordinated research efforts conducted by the National Aeronautics and Space Administration with funds specifically appropriated to such Administration. In addition, for projects for which the Administrator anticipates requesting funding, such plan shall set forth—

(A) for the first 2 years the plan, detailed annual estimates of the schedule, cost, and manpower levels for each research project, including a description of the scope and content of each major contract, grant, or interagency agreement;

(B) for the 3d, 4th, and 5th years of the plan, estimates of the total cost of each major project for such years and any additional major research projects which may be required to meet long-term objectives and which may have significant impact on future funding requirements;

(C) for the 6th and subsequent years of the plan, the long-term objectives which the Administrator considers to be necessary to ensure that aviation safety will be given the highest priority; and

(D) details of a program to disseminate to the private sector the results of aviation research conducted by the Administrator, including any new technologies developed.

(2) Subject to section 316(d)(2) of this Act and the regulations prescribed to carry out such section, the Administrator shall report annually, beginning with the date of transmission of the first aviation research plan as required by paragraph (1), to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on the accomplishments of the research completed during the preceding fiscal year. The report shall be transmitted

together with each plan transmittal required under paragraph (1) and shall be organized so as to allow comparison with the plan in effect for such year under this subsection.

CIVIL AEROMEDICAL RESEARCH

(e) The Civil Aeromedical Institute established by section 106(j) of title 49, United States Code, is authorized—

(1) to conduct civil aeromedical research, including, but not limited to, research related to—

(A) protection and survival of aircraft occupants;

(B) medical accident investigation and airman medical certification;

(C) toxicology and the effects of drugs on human performance;

(D) the impact of disease and disability on human performance;

(E) vision and its relationship to human performance and equipment design;

(F) human factors of flight crews, air traffic controllers, mechanics, inspectors, airway facility technicians, and other persons involved in the operation and maintenance of aircraft and air traffic control equipment; and

(G) agency work force optimization, including training, equipment design, reduction of errors, and identification of candidate tasks for automation;

(2) to make comments to the Administrator on human factors aspects of proposed air safety rules;

(3) to make comments to the Administrator on human factors aspects of proposed training programs, equipment requirements, standards, and procedures for aviation personnel;

(4) to advise, assist, and represent the Federal Aviation Administration in the human factors aspects of joint projects between such Administration and the National Aeronautics and Space Administration, other Government agencies, industry, and foreign governments; and

(5) to provide medical consultation services to the Administrator with respect to medical certification of airmen.

RESEARCH ADVISORY COMMITTEE

(f)(1) Not later than 180 days after the date of the enactment of this subsection, the Administrator shall establish in the Federal Aviation Administration a research advisory committee.

(2) The advisory committee shall provide advice and recommendations to the Administrator regarding needs, objectives, plans, approaches, content, and accomplishments with respect to the aviation research program carried out under this section and section 316. The committee shall also assist in assuring that such research is coordinated with similar research being conducted outside of the Federal Aviation Administration.

(3) The advisory committee shall be composed of not more than 20 members appointed by the Administrator from among persons who are not employees of the Federal Aviation Administration and who are specially qualified to serve on the committee by virtue of

their education, training, or experience. The Administrator in appointing the members of the committee shall ensure that universities, corporations, associations, consumers, and other government agencies are represented.

(4) The chairman of the advisory committee shall be designated by the Administrator.

(5) Members of the advisory committee shall serve without pay; except that the Administrator may allow any member, while attending meetings of the advisory committee or a subordinate committee, travel or transportation expenses in accordance with section 5703 of title 5, United States Code.

(6) The Administrator shall provide support staff for the advisory committee. The Administrator may establish subordinate committees to the advisory committee to provide advice on specific areas of research conducted under this section and section 316.

(7) Upon request of the advisory committee, the Administrator shall provide such information, administrative services, and supplies as the Administrator determines are necessary for the advisory committee to carry out its functions.

(8) Section 14 of the Federal Advisory Committee Act shall not apply to the advisory committee established under this subsection.

(9)(A) Not more than one-tenth of 1 percent of the funds made available to carry out research under this section and section 316 for fiscal years beginning after September 30, 1988, may be used by the Administrator to carry out this subsection.

(B) No limitation on the amount of funds available for obligation by or for the advisory committee shall be applicable with respect to the funds made available to carry out this subsection. [49 U.S.C. App. 1353]

OTHER POWERS AND DUTIES OF ADMINISTRATOR

GENERAL

SEC. 313. (a) The Administrator is empowered to perform such acts, to conduct such investigations, to issue and amend such orders, and to make and amend such general or special rules, regulations, and procedures, pursuant to and consistent with the provisions of this Act, as he shall deem necessary to carry out the provisions of, and to exercise and perform his powers and duties under, this Act.

PUBLICATIONS

(b) Except as may be otherwise provided in this Act, the Administrator shall make a report in writing on all proceedings and investigations under this Act in which formal hearings have been held, and shall state in such report his conclusions together with his decisions, order, or requirement in the premises. All such reports shall be entered of record and a copy thereof shall be furnished to all parties to the proceeding or investigation. The Administrator shall provide for the publication of such reports, and all other reports, orders, decisions, rules, and regulations issued by him under this Act in such form and manner as may be best adapted for public information and use. Publications purporting to be pub-

lished by the Administrator shall be competent evidence of the orders, decisions, rules, regulations, and reports of the Administrator therein contained in all courts of the United States, and of the several States, Territories, and possessions thereof, and the District of Columbia, without further proof or authentication thereof.

POWER TO CONDUCT HEARINGS AND INVESTIGATIONS

(c) In the conduct of any public hearings or investigations authorized by this Act, the Airport and Airway Improvement Act of 1982, the Federal Airport Act, or the Airport and Airway Development Act of 1970, the Administrator shall have the same powers to take evidence, issue subpoenas, take depositions, and compel testimony as are vested in members of the Board and its duly designated examiners by section 1004 of this Act. Actions of the Administrator in such cases shall be governed by the procedures specified in section 1004 and be enforced in the manner provided therein.

TRAINING SCHOOLS

(d) The Administrator is empowered to conduct a school or schools for the purpose of training employees of the Agency in those subjects necessary for the proper performance of all authorized functions of the Agency. He may also authorize attendance at courses given in such school or schools of other governmental personnel, and personnel of foreign governments, or personnel of the aeronautics industry: *Provided*, That in the event the attendance of such persons shall increase the cost of operation of such school or schools, the Administrator may require the payment or transfer of sufficient funds or other appropriate consideration to offset the additional costs. In providing any training to employees of the Agency or of other agencies of the Federal Government, the Administrator shall be subject to the provisions of the Government Employees Training Act (72 Stat. 327).¹ Funds received by the Administrator hereunder may be credited (1) to appropriations current at the time the expenditures are to be or have been paid, (2) to appropriations current at the time such funds are received, or (3) in part as provided under clause (1) and in part as provided under clause (2).

(e) INDEMNIFICATION.—The Administrator is empowered to indemnify any officer or employee of the Federal Aviation Administration against any claim or judgment against such person if such claim or judgment arises out of an act or acts committed, as determined by the Administrator, within the scope of such person's official duties. The Administrator may issue such regulations as may be necessary to implement this subsection.

(f) PROCESSING FEES.—

(1) ESTABLISHMENT AND COLLECTION.—The Administrator may establish and collect such fees as may be necessary to cover the costs associated with issuance of certificates of registration of aircraft, issuance of airman certificates to pilots, and

¹ Now contained in chapter 41 of title 5, United States Code, Public Law 89-554 § 7(b), 80 Stat. 631.

processing of forms for major repairs and alterations of fuel tanks and fuel systems of aircraft.

(2) **MAXIMUM FEE SCHEDULE.**—The amount of any fee which may be collected under this subsection—

(A) with respect to issuance of an airman's certificate to a pilot may not exceed \$12;

(B) with respect to registration of an aircraft after transfer of ownership may not exceed \$25;

(C) with respect to renewal of an aircraft registration may not exceed \$15; and

(D) with respect to processing of a form for a major repair or alteration of a fuel tank or fuel system of an aircraft may not exceed \$7.50.

The amounts established by this paragraph shall be adjusted by the Administrator for changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

(3) **LIMITATION.**—No fee may be collected under this subsection before the date on which the final regulations referred to in section 7207(a) of the Federal Aviation Administration Drug Enforcement Assistance Act of 1988 take effect.

(4) **CREDIT TO ACCOUNT; AVAILABILITY.**—The amount of fees collected under this subsection shall be credited to the account in the United States Treasury from which expenses were incurred by the Administrator for carrying out titles V and VI of this Act and shall be available to the Administrator for paying expenses for which such fees are collected. [49 U.S.C. App. 1354]

DELEGATION OF POWERS AND DUTIES TO PRIVATE PERSONS

DELEGATION BY ADMINISTRATOR

SEC. 314. (a) In exercising the powers and duties vested in him by this Act, the Administrator may, subject to such regulations, supervision, and review as he may prescribe, delegate to any properly qualified private person, or to any employee or employees under the supervision of such person, any work, business, or function respecting (1) the examination, inspection, and testing necessary to the issuance of certificates under title VI of this Act, and (2) the issuance of such certificates in accordance with standards established by him. The Administrator may establish the maximum fees which such private persons may charge for their services and may rescind any delegation made by him pursuant to this subsection at any time and for any reason which he deems appropriate.

APPLICATION FOR RECONSIDERATION

(b) Any person affected by any action taken by any private person exercising delegated authority under this section may apply for reconsideration of such action by the Administrator. The Administrator upon his own initiative, with respect to the authority granted under subsection (a), may reconsider the action of any private person either before or after it has become effective. If, upon reconsideration by the Administrator, it shall appear that the

action in question is in any respect unjust or unwarranted, the Administrator shall reverse, change, or modify the same accordingly; otherwise such action shall be affirmed: *Provided*, That nothing in this subsection shall be construed as modifying, amending, or repealing any provisions of the Administrative Procedure Act.¹ [49 U.S.C. App. 1355]

SCREENING OF PASSENGERS

PROCEDURES AND FACILITIES

SEC. 315. (a) The Administrator² shall prescribe or continue in effect reasonable regulations requiring that all passengers and all property intended to be carried in the aircraft cabin in air transportation or intrastate air transportation be screened by weapon-detecting procedures or facilities employed or operated by employees or agents of the air carrier, intrastate air carrier, or foreign air carrier prior to boarding the aircraft for such transportation. One year after the date of enactment of this section or after the effective date of such regulations, whichever is later, the Administrator may alter or amend such regulations, requiring a continuation of such screening only to the extent deemed necessary to assure security against acts of criminal violence and aircraft piracy in air transportation and intrastate air transportation. The Administrator shall submit semiannual reports to the Congress concerning the effectiveness of screening procedures under this subsection and shall advise the Congress of any regulations or amendments thereto to be prescribed pursuant to this subsection at least 30 days in advance of their effective date, unless he determines that an emergency exists which requires that such regulations or amendments take effect in less than 30 days and notifies the Congress of his determination. Each semiannual report submitted by the Administrator pursuant to the preceding sentence shall include the information described in section 1115(c) of this Act.

EXEMPTION AUTHORITY

(b) The Administrator may exempt from the provisions of this section, in whole or in part, air transportation operations, other than those scheduled passenger operations performed by air carriers engaging in interstate, overseas, or foreign air transportation under a certificate of public convenience and necessity issued by the Civil Aeronautics Board under section 401 of this Act or under a foreign air carrier permit issued by the Board under section 402 of this Act. [49 U.S.C. App. 1356]

¹ Subchapter II of chapter 5, and chapter 7, of title 5, United States Code. Public Law 89-554 § 7(b), 80 Stat. 631.

² This section and sections 316 and 317 of this title were enacted after the Department of Transportation Act. Reference to "Administrator" should be read as Administrator of the Federal Aviation Administration. See Introductory Note to this compilation.

AIR TRANSPORTATION SECURITY

RULES AND REGULATIONS

SEC. 316. (a)(1) The Administrator of the Federal Aviation Administration shall prescribe such reasonable rules and regulations requiring such practices, methods, and procedures, or governing the design, materials, and construction of aircraft, as he may deem necessary to protect persons and property aboard aircraft operating in air transportation or intrastate air transportation against acts of criminal violence and aircraft piracy.

(2) In prescribing and amending rules and regulations under paragraph (1) of this subsection, the Administrator shall—

(A) consult with the Secretary of Transportation, the Attorney General, and such other Federal, State, and local agencies as he may deem appropriate;

(B) consider whether any proposed rule or regulation is consistent with protection of passengers in air transportation or intrastate air transportation against acts of criminal violence and aircraft piracy and the public interest in the promotion of air transportation and intrastate air transportation;

(C) to the maximum extent practicable, require uniform procedures for the inspection, detention, and search of persons and property in air transportation and intrastate air transportation to assure their safety and to assure that they will receive courteous and efficient treatment, by air carriers, their agents and employees, and by Federal, State, and local law enforcement personnel engaged in carrying out any air transportation security program established under this section; and

(D) consider the extent to which any proposed rule or regulation will contribute to carrying out the purposes of this section.

PERSONNEL

(b) Regulations prescribed under subsection (a) of this section shall require operators of airports regularly serving air carriers certificated by the Civil Aeronautics Board to establish air transportation security programs providing a law enforcement presence and capability at such airports adequate to insure the safety of persons traveling in air transportation or intrastate air transportation from acts of criminal violence and aircraft piracy. Such regulations shall authorize such airport operators to utilize the services of qualified State, local, and private law enforcement personnel whose services are made available by their employers. In any case in which the Administrator determines, after receipt of notification from an airport operator in such form as the Administrator may prescribe, that qualified State, local, and private law enforcement personnel are not available in sufficient numbers to carry out the provisions of subsection (a) of this section, the Administrator may, by order, authorize such airport operator to utilize, on a reimbursable basis, the services of—

(1) personnel employed by any other Federal department or agency, with the consent of the head of such department or agency; and

(2) personnel employed directly by the Administrator;

at the airport concerned in such numbers and for such period of time as the Administrator may deem necessary to supplement such State, local, and private law enforcement personnel. In making the determination referred to in the preceding sentence the Administrator shall take into consideration—

- (A) the number of passengers enplaned at such airport;
- (B) the extent of anticipated risk of criminal violence and aircraft piracy at such airport or to the air carrier aircraft operations at such airport; and
- (C) the availability at such airport of qualified State or local law enforcement personnel.

TRAINING

(c) The Administrator may provide training for personnel employed by him to carry out any air transportation security program established under this section and for other personnel, including State, local, and private law enforcement personnel, whose services may be utilized in carrying out any such air transportation security program. The Administrator shall prescribe uniform standards with respect to training provided personnel whose services are utilized to enforce any such air transportation security program, including State, local, and private law enforcement personnel, and uniform standards with respect to minimum qualifications for personnel eligible to receive such training.

RESEARCH AND DEVELOPMENT; CONFIDENTIAL INFORMATION

(d)(1) The Administrator shall conduct such research (including behavioral research) and development as he may deem appropriate to develop, modify, test, and evaluate systems, procedures, facilities, and devices to protect persons and property aboard aircraft in air transportation or intrastate air transportation against acts of criminal violence and aircraft piracy.

(2) Notwithstanding section 552 of title 5, United States Code, relating to freedom of information, the Administrator shall prescribe such regulations as he may deem necessary to prohibit disclosure of any information obtained or developed in the conduct of research and development activities under this subsection if, in the opinion of the Administrator, the disclosure of such information—

(A) would constitute an unwarranted invasion of personal privacy (including, but not limited to, information contained in any personnel, medical, or similar file);

(B) would reveal trade secrets or privileged or confidential commercial or financial information obtained from any person; or

(C) would be detrimental to the safety of persons traveling in air transportation.

Nothing in this subsection shall be construed to authorize the withholding of information from the duly authorized committees of the Congress.

OVERALL FEDERAL RESPONSIBILITY

(e)(1) Except as otherwise specifically provided by law, no power, function, or duty of the Administrator of the Federal Aviation Administration under this section shall be assigned or transferred to any other Federal department or agency.

(2) Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration shall have exclusive responsibility for the direction of any law enforcement activity affecting the safety of persons aboard aircraft in flight involved in the commission of an offense under section 902(i) or 902(n) of this Act. Other Federal departments and agencies shall, upon request by the Administrator, provide such assistance as may be necessary to carry out the purposes of this paragraph.

(3) For the purposes of this subsection, an aircraft is considered in flight from the moment when all external doors are closed following embarkation until the moment when one such door is opened for disembarkation.

DEFINITION

(f) For the purposes of this section, the term "law enforcement personnel" means individuals—

(1) authorized to carry and use firearms,

(2) vested with such police power of arrest as the Administrator deems necessary to carry out this section, and

(3) identifiable by appropriate indicia of authority. [49 U.S.C. App. 1357]

AIRPORT SECURITY IN ALASKA

SEC. 317. The Administrator is authorized to exempt from the provisions of sections 315 and 316 of this Act those airports in Alaska which receive service only from air carriers operating under certificates granted by the Civil Aeronautics Board under section 401 of this Act, which operate aircraft having a maximum certificated gross takeoff weight of less than 12,500 pounds, and which do not enplane any passenger, or any property intended to be carried in the aircraft cabin, which passenger or property is moving in air transportation and will not be subject to screening in accordance with such section 315 at an airport in Alaska before such passenger or property is enplaned for any point outside Alaska. [49 U.S.C. App. 1358]

TITLE IV—AIR CARRIER ECONOMIC REGULATION¹

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

CERTIFICATE REQUIRED

SEC. 401. (a) No air carrier shall engage in any air transportation unless there is in force a certificate issued by the Board authorizing such air carrier to engage in such transportation.

¹ For terminations and transfers of functions of the Civil Aeronautics Board, see section 1601 of this Act. In this title, footnotes are used to indicate terminations of functions and transfers of

APPLICATION FOR CERTIFICATE

(b) Application for a certificate shall be made in writing to the Board, shall be in such form and contain such information, and shall be accompanied by such proof of service upon such interested persons, as the Board shall by regulation require, and upon any community affected.

ROUTE APPLICATIONS

(c)(1) Upon the filing of any application pursuant to subsection (b) of this section, the Board shall give due notice thereof to the public by posting a notice of such application in the office of the secretary of the Board and to such other persons as the Board may by regulation determine. The Board shall—

(A) set such application for a public hearing;

(B) begin to make a determination with respect to such application under the simplified procedures established by the Board in regulations pursuant to subsection (p); or

(C) dismiss such application on the merits;

not later than ninety days after the date the application is filed with the Board. Any interested person may file with the Board a protest or memorandum of opposition to or in support of the issuance of the certificate requested by such application. Any order of dismissal of an application issued by the Board without setting such application for a hearing or beginning to make a determination with respect to such application under such simplified procedures, shall be deemed a final order subject to judicial review in accordance with the provisions of section 1006 of this Act.

(2) If the Board determines that any application should be set for a public hearing under clause (A) of the second sentence of paragraph (1) of this subsection, an initial or recommended decision shall be issued not later than one hundred and fifty days after the date of such determination by the Board. Not later than ninety days after the initial or recommended decision is issued, the Board shall make its final order with respect to such application. If the Board does not act within such ninety-day period—

(A) in the case of an application for a certificate to engage in interstate or overseas air transportation, the initial or recommended decision shall become the final decision of the Board and shall be subject to judicial review in accordance with the provisions of section 1006 of this Act; and

(B) in the case of an application for a certificate to engage in foreign air transportation, the initial or recommended decision shall be transmitted to the President pursuant to section 801 of this Act.

(3) Not later than the one-hundred-eightieth day after the Board begins to make a determination with respect to an application under the simplified procedures established by the Board in regula-

functions to agencies other than the Department of Transportation. Any authority of the Board not covered by such a footnote was transferred on January 1, 1985, to the Department of Transportation. The exercise of authority relating to foreign air transportation is to be in consultation with the Department of State.

tions pursuant to subsection (p) of this section, the Board shall issue its final order with respect to such application.

(4) If an applicant fails to meet the procedural schedule adopted by the Board in a particular proceeding, the applicable period prescribed in paragraph (2) or (3) of this subsection may be extended by the Board for a period equal to the period of delay caused by the applicant. In addition to any extension authorized by the preceding sentence, in extraordinary circumstances, the Board may, by order delay an initial or recommended decision for not to exceed thirty days beyond the final date on which the decision is required to be made.

ISSUANCE OF CERTIFICATE

(d)(1)¹ The Board shall issue a certificate authorizing the whole or any part of the transportation covered by the application, if it finds that the applicant is fit, willing, and able to perform such transportation properly and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder, and that such transportation is consistent with the public convenience and necessity; otherwise such application shall be denied.

(2)¹ In the case of an application for a certificate to engage in temporary air transportation, the Board may issue a certificate authorizing the whole or any part thereof for such limited periods as is consistent with the public convenience and necessity, if it finds that the applicant is fit, willing, and able properly to perform such transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder.

(3)¹ In the case of an application for a certificate to engage in charter air transportation, the Board may issue a certificate to any applicant, not holding a certificate under paragraph (1) or (2) of this subsection on January 1, 1977, authorizing interstate air transportation of persons, which authorizes the whole or any part thereof for such periods, as is consistent with the public convenience and necessity, if it finds that the applicant is fit, willing, and able properly to perform the transportation covered by the application and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder.

(4)(A) Notwithstanding any other provision of this Act, any citizen of the United States who undertakes, within any State, the carriage of persons or property as a common carrier for compensation or hire with aircraft capable of carrying thirty or more persons pursuant to authority for such carriage within such State granted by the appropriate State agency is authorized—

(i) to establish services for persons and property which includes transportation by such citizen over its routes in such State and transportation by an air carrier or a foreign air carrier in air transportation; and

¹ Section 401(d) (1), (2), and (3) authority terminated December 31, 1981, insofar as the provisions require a determination of consistency with the public convenience and necessity for interstate and overseas air transportation of persons, and insofar as section 401(d)(3) prohibits persons holding certificates under (d)(1) or (d)(2) from providing interstate or overseas charter air transportation of persons. Section 1601(a)(1)(A) of this Act.

(ii) subject to the requirements of section 412 of this title, to enter into an agreement with any air carrier or foreign air carrier for the establishment of joint fares, rates, or services for such through services.

(B) The joint fares or rates established under clause (ii) of subparagraph (A) of this paragraph shall be the lowest of—

(i) the sum of the applicable fare or rate for service in the State approved by the appropriate State agency, and the applicable fare or rate for that part of the through service provided by the air carrier or foreign air carrier;

(ii) a joint fare or rate established and filed in accordance with section 403 of this Act; or

(iii) a joint fare or rate established by the Board in accordance with section 1002 of this Act.

(5)(A) Except as provided in subparagraphs (B) and (G)(i) of this paragraph, if an air carrier is authorized by its certificate to provide round trip service nonstop each way between any two points in the forty-eight contiguous States or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week for at least thirteen weeks during any twenty-six-week period (other than such a period during which service was interrupted by a labor dispute which lasted more than six weeks) the last day of which ends on or after the date of enactment of this paragraph and if such service, at a minimum of five round trips per week, has been provided between such points for at least thirteen weeks during such twenty-six-week period, pursuant to published flight schedules, by no more than one other air carrier, then the Board shall issue a certificate to the first applicant who, within thirty days after the last day of such twenty-six-week period, submits an application which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this Act.

(B) Except as provided in subparagraph (G)(ii) of this paragraph, if an air carrier is authorized to provide seasonal round trip service nonstop each way between any two points in the forty-eight contiguous States in interstate air transportation or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week during half of the weeks during such season (other than such a season during which service was interrupted by a labor dispute which lasted more than 25 per centum of such season) the last day of which ends on or after the date of enactment of this paragraph and if such service, at a minimum of five round trips per week, has been provided between such points for at least half of the weeks during such season, pursuant to published flight schedules, by no more than one other air carrier, then the Board shall issue a certificate to the first applicant who, within thirty days after the last day of such season, submits an application which certifies that its aircraft meet all require-

ments established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this Act.

(C) With respect to any application which is submitted pursuant to subparagraph (A) or (B) of this paragraph, except as provided in subparagraph (G), the Board shall issue a final order granting such certificate within fifteen days of the date of such application.

(D) Except as provided in subparagraphs (E) and (G)(i) of this paragraph, if an air carrier is authorized by its certificate to provide round trip service nonstop each way between any two points in the forty-eight contiguous States or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week for at least thirteen weeks during any twenty-six-week period (other than such a period during which service was interrupted by a labor dispute which lasted more than six weeks) the last day of which ends on or after the date of enactment of this paragraph and if such service, at a minimum of five round trips per week, has been provided between such points for at least thirteen weeks during such twenty-six-week period, pursuant to published flight schedules, by two or more other air carriers, then the Board, subject to subparagraph (F) of this paragraph, shall issue a certificate to the first applicant who, within thirty days after the last day of such twenty-six-week period, submits an application which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this Act.

(E) Except as provided in subparagraph (G)(ii) of this paragraph, if an air carrier is authorized to provide seasonal round trip service nonstop each way between any two points in the forty-eight contiguous States in interstate air transportation or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week during half of the weeks during such season (other than such a season during which service was interrupted by a labor dispute which lasted more than 25 per centum of such season) the last day of which ends on or after the date of enactment of this paragraph and if such service, at a minimum of five round trips per week, has been provided between such points for at least half of the weeks during such season, pursuant to published flight schedules, by two or more other air carriers, then the Board, subject to subparagraph (F) of this paragraph, shall issue a certificate to the first applicant who, within thirty days after the last day of such season, submits an application which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able

to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this Act.

(F)(i) Except as provided in subparagraph (G) of this paragraph, with respect to any application which is submitted pursuant to subparagraph (D) or (E) of this paragraph, the Board shall issue a final order granting such certificate within sixty days of the date of such application, unless the Board finds that the issuance of such certificate is inconsistent with the public convenience and necessity. Prior to issuing such final order, the Board shall afford adequate notice and opportunity for interested persons to file appropriate written evidence and argument, but the Board need not hold oral evidentiary hearings.

(ii) For purposes of clause (i) of this subparagraph, there shall be a rebuttable presumption that any transportation covered by an application for a certificate submitted pursuant to subparagraph (D) or (E) of this paragraph is consistent with the public convenience and necessity.

(G)(i) If, after the failure of any air carrier to provide the minimum level of service between any pair of points for the period of time specified in subparagraph (A) or (D) of this paragraph and before the Board receives an application from any applicant for a certificate under such subparagraph to provide air transportation between such points, the Board receives notice from such air carrier that it intends to commence service within thirty days of such notice and to provide a minimum of five round trips per week for thirteen consecutive weeks between such points and the Board has not previously received notice from such air carrier with respect to such points, the Board shall not approve such application for a certificate to provide service between such points during such thirteen-week period based upon such failure, unless such air carrier fails to provide such service during such thirteen-week period.

(ii) If, after the failure of any air carrier to provide the minimum level of service between any pair of points for the period of time specified in subparagraph (B) or (E) of this paragraph and before the Board receives an application from any applicant for a certificate under such subparagraph to provide air transportation between such points, the Board receives notice from such air carrier that it intends to commence service within fifteen days of the first day of the next season and to provide a minimum of five round trips per week for the first half of such season between such points and the Board has not previously received notice from such air carrier with respect to such points, the Board shall not approve such application for a certificate to provide service between such points during the first half of such period based upon such failure, unless such air carrier fails to provide such service during the first half of such period.

(H)(i) Whenever the Board issues a certificate pursuant to subparagraph (A) or (D) of this paragraph, the air carrier receiving such certificate shall commence service pursuant to such certificate within forty-five days of such issuance. If such air carrier fails to commence service within such period, the Board shall revoke such certificate.

(ii) Whenever the Board issues a certificate pursuant to subparagraph (B) or (E) of this paragraph to provide seasonal service, the air carrier receiving such certificate shall commence service pursuant to such certificate within fifteen days after the beginning of the first such season which begins on or after the date of such issuance. If such air carrier fails to commence service within such period, the Board shall revoke such certificate.

(I) Not more than one certificate shall be issued under this paragraph for round trip nonstop service between two points in interstate air transportation based upon the failure of the same air carrier to provide such service between such points.

(J) Whenever the Board issues a certificate pursuant to subparagraph (A) of this paragraph based upon the failure of any air carrier to provide the round trip service described in such subparagraph, the Board shall suspend the authority of such air carrier to provide such service, and suspend the authority of any other air carrier which failed to provide such service during the same twenty-six-week period for twenty-six weeks after the date of issuance of such certificate pursuant to subparagraph (A), or until such time within such twenty-six weeks as the air carrier to which a certificate is issued under such subparagraph fails to provide such service at a minimum of five round trips per week for at least thirteen weeks, whichever first occurs, except that the Board shall not suspend the authority of such air carriers under this subparagraph if the Board finds that such suspension is not necessary to encourage continued service between such points by the air carrier which received a certificate under subparagraph (A).

(6) Any air carrier holding a valid certificate to engage in foreign air transportation is authorized, on any scheduled flight in foreign air transportation, to transport persons, property, and mail between points in the United States between which it is authorized to operate during such flight. The authority described in the preceding sentence shall be limited to one round-trip flight per day between any such pair of points, unless the Board authorizes more than one round-trip flight per day between any such pair of points.

(7)(A) After the first business day of each of the calendar years 1979, 1980, and 1981 and before the thirtieth day of such calendar year—

(i) any air carrier which (I) has operated during the preceding calendar year in accordance with a certificate issued by the Board under this section which has been in force during such entire preceding calendar year, and (II) has provided air transportation of persons during such calendar year; and

(ii) any intrastate air carrier which has a valid certificate or license issued by a State regulatory authority to engage in intrastate air transportation and which has operated more than one hundred million available seat-miles in intrastate air transportation in the preceding calendar year;

may apply to the Board for a certificate under this subparagraph to engage in nonstop service between any one pair of points in interstate or overseas air transportation (other than a pair of points either point of which is in the State of Hawaii) in addition to any pair of points authorized by any existing certificate or license

held by such air carrier or intrastate air carrier, except that no air carrier may apply to engage in nonstop service between such pair of points if any air carrier has filed written notice to the Board pursuant to subparagraph (C) of this paragraph with respect to such pair of points. Not later than the sixtieth day after the date on which the Board receives an application from an applicant under this subparagraph, the Board shall issue a certificate to such applicant for the nonstop service specified in such application, unless within such sixty-day period the Board determines that the applicant is not fit, willing, and able to provide such nonstop service and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board issued under this Act.

(B) Not later than the one-hundred-twentieth day of calendar year 1979, 1980, or 1981, any air carrier which submitted an application to the Board in accordance with subparagraph (A) of this paragraph in such calendar year and—

(i) which did not receive a certificate to provide service between the pair of points set forth in the application because of a determination by the Board under such subparagraph (A); or

(ii) which received a certificate to provide service between such pair of points, but was not the only air carrier to receive a certificate under such subparagraph (A) during such calendar year to provide nonstop service between such pair of points;

may reapply to the Board for a certificate to engage in nonstop service between any one pair of points in interstate or overseas air transportation (other than the pair of points specified in the first application submitted to the Board by such air carrier in such calendar year and other than a pair of points either point of which is in the State of Hawaii) in addition to any pair of points authorized by any existing certificate or license held by such air carrier or intrastate air carrier, except that no air carrier may apply to engage in nonstop service between such pair of points if any air carrier has filed written notice to the Board pursuant to subparagraph (C) of this paragraph with respect to such pair of points. Not later than the sixtieth day after the date on which the Board receives an application under this subparagraph, the Board shall issue a certificate to the applicant for such nonstop service, unless within such sixty-day period the Board makes a determination with respect to the issuance of such certificate in accordance with the second sentence of subparagraph (A) of this paragraph. If the Board issues a certificate to an applicant under this subparagraph, it shall revoke any authority in any certificate which it granted to such applicant in the same calendar year under subparagraph (A) of this paragraph.

(C)(i) Subject to clause (ii) of this subparagraph, any air carrier which is authorized pursuant to paragraph (1) or (2) of this subsection to engage in nonstop service between any pair of points in interstate or overseas air transportation on the first business day of calendar year 1979, 1980, or 1981 and which wants to preclude any other air carrier from obtaining authority under subparagraph (A) or (B) of this paragraph to engage in nonstop service between such pair of points during such calendar year may, on such day,

file written notice to the Board which sets forth such pair of points. Upon receipt of any written notice under the preceding sentence, the Board shall make such notice available to the public.

(ii) No air carrier may file a written notice under clause (i) of this subparagraph during any calendar year with respect to more than one pair of points in interest or overseas in air transportation.

(D)(i) The Board shall, on an emergency basis, by rule modify the program established by this paragraph, if the Board finds that—

(I) the operation of such program is causing substantial public harm to the national air transportation system, or a substantial reduction in air service to small and medium sized communities in any region of the country;

(II) the modification proposed by the Board is required by the public convenience and necessity in order to alleviate such harm or reduction; and

(III) such harm or reduction identified by the Board cannot be rectified by any reasonably available means other than the modification proposed by the Board.

Any emergency modification proposed by the Board under this subparagraph shall modify such program only to the minimum extent necessary to rectify the harm or reduction identified by the Board. Any emergency modification of such program may be limited to any pair of points.

(ii) The findings of fact by the Board in any proceeding held pursuant to this subparagraph, if supported by substantial evidence, shall be conclusive. No objection to a modification of the program proposed by the Board under this subparagraph shall be considered by a court unless such objection shall have been submitted to the Board, of¹ if it was not so submitted, unless there were reasonable grounds for failure to do so.

(E) The Board shall conduct a study of the procedure for certification of air carriers and intrastate air carrier set forth in subparagraphs (A) and (B) of this paragraph to evaluate—

(i) whether such procedure is consistent with the criteria set forth in section 102 of this Act; and

(ii) the relative effectiveness of such procedure as compared with other procedures for certification set forth in this Act, including but not limited to, the procedures set forth in paragraphs (5) and (6) of this subsection and in subsection (p) of this section.

Not later than December 31, 1980, the Board shall complete such study and report the results of such study to the Congress.

(8)² The Board may grant an application under subsection (d)(1), (2), or (3) of this section (whether the application be for permanent or temporary authority) for only a temporary period of time whenever the Board determines that a test period is desirable in order to determine if projected services, efficiencies, methods, rates, fares, charges, or other projected results will in fact materialize and remain for a sustained period of time, or to assess the impact of the new services on the national air route structure, or other-

¹ So in original. Probably should read "or".

² Section 401(d)(8) authority terminated December 31, 1981, to the extent provisions relate to interstate and overseas air transportation of persons. Section 1601(a)(1)(B) of this Act.

wise to evaluate the proposed new services. In any case where the Board has issued a certificate under any one of such subsections on the basis that the air carrier holding such certificate will provide innovative or low-priced air transportation under such certificate, the Board, upon petition, or its own motion, may review the performance of such air carrier, and may alter, amend, modify, suspend, or revoke such certificate or authority in accordance with the procedures prescribed in section 401(g) of this title, on the grounds that such air carrier has not provided, or is not providing, such air transportation.

(9)(A) In any determination as to whether or not any applicant is fit, willing, and able to perform properly the air transportation specified in the application for a certificate described in paragraph (1)(A), (2)(A), or (3)(A) of this subsection and to conform to the provisions of this Act, the applicant shall have the burden of showing that it is so fit, willing, and able.

(B) In any determination as to whether the air transportation specified in any application for a certificate described in paragraph (1)(A), (2)(A), or (3)(A) of this subsection is or is not consistent with the public convenience and necessity, an opponent of the application shall have the burden of showing that such air transportation is not consistent with the public convenience and necessity.

(C) Transportation covered by any application for a certificate described in paragraph (1)(A), (2)(A), or (3)(A) of this subsection shall, for the purposes of such paragraphs, be deemed to be consistent with the public convenience and necessity, unless the Board finds based upon a preponderance of the evidence that such transportation is not consistent with the public convenience and necessity.

TERMS AND CONDITIONS OF CERTIFICATE

(e)(1)¹ Each certificate issued under this section shall specify the terminal points and intermediate points, if any, between which the air carrier is authorized to engage in air transportation and the service to be rendered; and there shall be attached to the exercise of the privileges granted by the certificate, or amendment thereto, such reasonable terms, conditions, and limitations as the public interest may require.

(2) A certificate issued under this section to engage in foreign air transportation shall designate the terminal and intermediate points only insofar as the Board shall deem practicable, and otherwise shall designate only the general route or routes to be followed. Any air carrier holding a certificate for foreign air transportation shall be authorized to handle and transport mail of countries other than the United States.

(3) A certificate issued under this section to engage in foreign charter air transportation shall designate the terminal and intermediate points only insofar as the Board shall deem practicable and otherwise shall designate only the geographical area or areas within or between which service may be rendered.

¹ Section 401(e)(1) authority terminated December 31, 1981 insofar as it permits the Board to specify terminal and intermediate points in interstate and overseas air transportation of persons. Section 1601 (a)(1)(C) of this Act.

(4) No term, condition, or limitation of a certificate shall restrict the right of an air carrier to add to or change schedules, equipment, accommodations, and facilities for performing the authorized transportation and service as the development of the business and the demands of the public shall require.

(5) No air carrier shall be deemed to have violated any term, condition, or limitation of its certificate by landing or taking off during an emergency at a point not named in its certificate or by operating in an emergency, under regulations which may be prescribed by the Board, between terminal and intermediate points other than those specified in its certificate.

(6) Any air carrier, other than a charter air carrier, may perform charter trips (including inclusive tour charter trips) or any other special service, without regard to the points named in its certificate, or the type of service provided therein, under regulations prescribed by the Board.

(7)(A) On and after the date of enactment of this paragraph, the Board shall not attach a closed-door restriction to any certificate issued under this section. Any closed-door restriction attached to any certificate issued before such date shall, on and after such date, have no force or effect. This subparagraph shall not apply to (i) a closed-door restriction applicable to air transportation between two points both of which are in the State of Hawaii, or (ii) a closed-door restriction in effect on such date which resulted from a sale, exchange, or transfer by any air carrier of its authority to provide air transportation to another air carrier.

(B) Upon application of any air carrier seeking removal or modification of a term, condition, or limitation attached to a certificate issued under this section to engage in interstate, overseas, or foreign air transportation, the Board shall, within sixty days after the filing of such application, set such application for oral evidentiary hearings on the record or begin to consider such application under the simplified procedures established by the Board in regulations pursuant to subsection (p) of this section for purposes of eliminating or modifying any such term, condition, or limitation which it finds is inconsistent with the criteria set forth in section 102 of this Act. Applications under this paragraph shall not be subject to dismissal pursuant to section 401(c)(1) of this Act.

(C) For purposes of this paragraph, the term "closed-door restriction" means any condition attached to a certificate to provide interstate or overseas air transportation issued to any air carrier under this section which prohibits such air carrier from providing local passenger service between any pair of points between which it is authorized to operate pursuant to such certificate.

EFFECTIVE DATE AND DURATION OF CERTIFICATE

(f) Each certificate shall be effective from the date specified therein, and shall continue in effect until suspended or revoked as provided in this section, or until the Board shall certify that operation thereunder has ceased, or, if issued for a limited period of time under subsection (d)(2) of this section, shall continue in effect until the expiration thereof, unless, prior to the date of expiration,

such certificate shall be suspended or revoked as provided herein, or the Board shall certify that operations thereunder have ceased.

AUTHORITY TO MODIFY, SUSPEND, OR REVOKE

(g)(1) The Board upon petition or complaint or upon its own initiative, after notice and hearings, or pursuant to the simplified procedures under subsection (p) of this section, may alter, amend, modify, or suspend any such certificate, in whole or in part, if the public convenience and necessity so require, or may revoke any such certificate, in whole or in part, for intentional failure to comply with any provision of this title or any order, rule, or regulation issued hereunder or any term, condition, or limitation of such certificate. No such certificate shall be revoked unless the holder thereof fails to comply, within a reasonable time to be fixed by the Board, with an order of the Board commanding obedience to the provision, or to the order (other than an order issued in accordance with this sentence), rule, regulation, term, condition, or limitation found by the Board to have been violated. No certificate to engage in foreign air transportation may be altered, amended, modified, suspended, or revoked pursuant to the simplified procedures of subsection (p) of this section if the holder of such certificate requests an oral evidentiary hearing or the Board finds that, under all the facts and circumstances, an oral evidentiary hearing is required in the public interest.

(2) Any interested person may file with the Board a protest or memorandum in support of or in opposition to the alteration, amendment, modification, suspension or revocation of a certificate pursuant to paragraph (1) of this subsection.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, the Board may suspend or revoke authority of an air carrier to serve any point in foreign air transportation authorized in a certificate issued under this section, upon notice and with a reasonable opportunity for the affected carrier to present its views, but without hearing, if the carrier has notified the Board in accordance with subsection (j) of this section or any regulation of the Board that it proposes to suspend all service provided by that carrier to such point, or, except at a point which is provided seasonal service comparable to that provided during the previous year, if the carrier has failed to provide any regularly scheduled service to the point for 90 days preceding the date of the Board's notice to the carrier of its proposed action.

TRANSFER OF CERTIFICATE

(h) No certificate may be transferred unless such transfer is approved by the Board as being consistent with the public interest.

CERTAIN RIGHTS NOT CONFERRED BY CERTIFICATE

(i) No certificate shall confer any proprietary, property, or exclusive right in the use of any airspace, Federal airway, landing area, or air-navigation facility.

TERMINATIONS, REDUCTIONS, AND SUSPENSIONS OF SERVICE

(j)(1)¹ No air carrier holding a certificate issued under this section shall—

(A) terminate or suspend all air transportation which it is providing to a point under such certificate; or

(B) reduce any such air transportation below that which the Board has determined to be essential air transportation for such point;

unless such air carrier has first given the Board, any community affected, and the State agency of the State in which such community is located, at least 90 days notice of its intent to so terminate, suspend, or reduce such air transportation. The Board may, by regulation or otherwise, authorize such temporary suspension of service as may be in the public interest.

(2) If an air carrier holding a certificate issued pursuant to section 401 of this Act proposes to terminate or suspend nonstop or single-plane air transportation between two points being provided by such air carrier under such certificate, and such air carrier is the only air carrier certificated pursuant to such section 401 providing nonstop or single-plane air transportation between such points, at least sixty days before such proposed termination or suspension, such air carrier shall file with the Board and serve upon each community to be directly affected notice of such termination or suspension.

COMPLIANCE WITH LABOR LEGISLATION

(k)(1) Every air carrier shall maintain rates of compensation, maximum hours, and other working conditions and relations of all of its pilots and copilots who are engaged in interstate air transportation within the continental United States (not including Alaska) so as to conform with decision numbered 83 made by the National Labor Board on May 10, 1934, notwithstanding any limitation therein as to the period of its effectiveness.

(2) Every air carrier shall maintain rates of compensation for all of its pilots and copilots who are engaged in overseas or foreign air transportation or air transportation wholly within a Territory or possession of the United States, the minimum of which shall be not less, upon an annual basis, than the compensation required to be paid under said decision 83 for comparable service to pilots and copilots engaged in interstate air transportation within the continental United States (not including Alaska).

(3) Nothing herein contained shall be construed as restricting the right of any such pilots or copilots, or other employees, of any such air carrier to obtain by collective bargaining higher rates of compensation or more favorable working conditions or relations.

(4) It shall be a condition upon the holding of a certificate by any air carrier that such carrier shall comply with title II of the Railway Labor Act, as amended.

¹ Section 401(j) authority terminated December 31, 1981, to the extent the provisions relate to interstate and overseas air transportation of persons, except with respect to essential air transportation. Section 1601(a)(1)(D) of this Act.

(5) The term "pilot" as used in this subsection shall mean an employee who is responsible for the manipulation of or who manipulates the flight controls of an aircraft while under way including takeoff and landing of such aircraft, and the term "copilot" as used in this subsection shall mean an employee any part of whose duty is to assist or relieve the pilot in such manipulation, and who is properly qualified to serve as, and holds a currently effective airman certificate authorizing him to serve as, such pilot or copilot.

REQUIREMENT AS TO CARRIAGE OF MAIL

(l)¹ Whenever so authorized by its certificate, any air carrier shall provide necessary and adequate facilities and service for the transportation of mail, and shall transport mail whenever required by the Postmaster General. Such air carrier shall be entitled to receive reasonable compensation therefor as hereinafter provided.

APPLICATION FOR NEW MAIL SERVICE

(m)² Whenever, from time to time, the Postmaster General shall find that the needs of the Postal Service³ require the transportation of mail by aircraft between any points within the United States or between the United States and foreign countries, in addition to the transportation of mail authorized in certificates then currently effective, the Postmaster General shall certify such finding to the Board and file therewith a statement showing such additional service and the facilities necessary in connection therewith, and a copy of such certification and statement shall be posted for as least twenty days in the office of the secretary of the Board. The Board shall, after notice and hearing, and if found by it to be required by the public convenience and necessity, make provision for such additional service, and the facilities necessary in connection therewith, by issuing a new certificate or certificates or by amending an existing certificate or certificates in accordance with the provisions of this section.

ADDITIONAL POWERS AND DUTIES OF BOARD WITH RESPECT TO CHARTER AIR CARRIERS

(n)(1)⁴ Notwithstanding any other provision of this title, no air carrier providing air transportation under a certificate issued under this section shall commingle, on the same flight, passengers being transported in interstate, overseas, or foreign charter air transportation with passengers being transported in scheduled interstate, overseas, or foreign air transportation except that this subsection shall not apply to the carriage of passengers in air transportation under group fare tariffs.

¹ Sections 401 (l) and (m) authority terminated January 1, 1985, insofar as provisions relate to interstate and overseas air transportation (except insofar as provisions apply to transportation of mail between two points both of which are within the State of Alaska). Section 1601(a)(4)(A) of this Act. Authority relating to transportation of mail between two points within Alaska will terminate January 1, 1989. Section 1601(a)(8) of this Act.

² See footnote 1.

³ Now the United States Postal Service. Public Law 91-375 § 6(o), 84 Stat. 783.

⁴ Section 401(n) (1) and (4) authority terminated December 31, 1981, insofar as provisions relate to interstate and overseas air transportation of persons. Section 1601(a)(1)(E) of this Act.

(2) No rule, regulation, or order issued by the Board shall restrict the marketability, flexibility, accessibility, or variety of charter trips provided under a certificate issued under this section except to the extent required by the public interest, and shall in no event be more restrictive than those regulations regarding charter air transportation in effect on October 1, 1978.

(3) Notwithstanding any other provision of this title, no certificate issued under this section shall authorize the holder thereof to provide charter air transportation between two points within the State of Alaska unless, and then only to the extent to which, the Board, in issuing or amending such certificate, may authorize after determining that such charter air transportation is required by the public convenience and necessity. This subsection shall not apply to a certificate issued under this section to a person who, before July 1, 1977, maintained its principal place of business within the State of Alaska and conducted air transport operations between points within the State of Alaska with aircraft having a certificated gross takeoff weight of more than 40,000 pounds.

(4)¹ No certificate issued under this section shall permit a charter air carrier to sell or offer for sale an inclusive tour in air transportation by selling or offering for sale individual tickets directly to members of the general public, or to do so indirectly by controlling, being controlled by, or under common control with a person authorized by the Board to make such sales.

(5) In any case in which the Board determines that the failure of a charter air carrier to comply with the provisions of subsection (q) or (r) of this section, or regulations or orders of the Board thereunder, requires, in the interest of the rights, welfare, or safety of the public, immediate suspension of such carrier's certificate, the Board shall suspend such certificate, in whole or in part, without notice or hearing, for not more than thirty days. The Board shall immediately enter upon a hearing to determine whether such certificate should be modified, suspended, or revoked and, pending the completion of such hearing, the Board may further suspend such certificate for additional periods aggregating not more than sixty days. If the Board determines that a carrier whose certificate is suspended under this paragraph comes into compliance with the provisions of subsections (q) and (r) of this section, and regulations and orders of the Board thereunder, the Board may immediately terminate the suspension of such certificate and any pending proceeding commenced under this paragraph, but nothing in this sentence shall preclude the Board from imposing on such carrier, a civil penalty for any violation of such provisions, regulations, or orders.

(6) The Board shall prescribe such regulations and issue such orders as may be necessary to carry out the provisions of this subsection.

(o)(1) Except as provided in paragraph (2) of this subsection, transportation of persons or property by transport category aircraft in interstate air transportation procured by the Department of Defense, including military departments within such Department,

¹ See footnote 4, p. 50.

through contracts of more than 30 days duration for airlift service within the United States, shall be provided only by carriers which (1) have aircraft in the civil reserve air fleet or offer to place aircraft in such fleet, and (2) hold certificates under this section. Applications for certification under subsection (a) of this section for the purpose of providing the service referred to in this subsection shall be acted on expeditiously by the Board.

(2) In any case in which the Secretary of Defense determines that no air carrier certificated under subsection (a) of this section is capable of providing and willing to provide the type of service described in paragraph (1) of this subsection, he may contract with an air carrier which does not hold a certificate under this section.

PROCEDURES FOR PROCESSING APPLICATIONS FOR CERTIFICATES

(p)(1) The Board shall promulgate rules establishing simplified procedures for—

(A) the disposition of applications for a certificate to engage in air transportation pursuant to subsection (d) (1), (2), or (3) of this section; and

(B) the alteration, amendment, modification, suspension, or transfer of all or any part of any certificate pursuant to subsection (f), (g) or (h) of this section.

Such rules shall provide for adequate notice and an opportunity for any interested person to file appropriate written evidence and argument but need not provide for oral evidentiary hearings. Such rules may provide that such written evidence and argument shall be filed by such person as part of a protest or memorandum filed with respect to such application under subsection (c) of this section.

(2) The Board may use such simplified procedures in any case if the Board determines that the use of such simplified procedures is in the public interest. The rules adopted by the Board pursuant to this subsection shall, to the extent the Board finds it practicable, set forth the standards it intends to apply in determining whether to employ such simplified procedures, and in deciding cases in which such procedures are employed.

INSURANCE AND LIABILITY

(q)(1) No certificate shall be issued or remain in effect unless the applicant for such certificate or the air carrier, as the case may be, complies with regulations or orders issued by the Board governing the filing and approval of policies of insurance or plans for self-insurance in the amount prescribed by the Board which are conditioned to pay, within the amount of such insurance, amounts for which such applicant or such air carrier may become liable for bodily injuries to or the death of any person, or for loss of or damage to property of others, resulting from the operation or maintenance of aircraft under such certificate.

(2) In order to protect travelers and shippers by aircraft operated by certificated air carriers, the Board may require any such air carrier to file a performance bond or equivalent security arrangement, in such amount and upon such terms as the Board shall prescribe, to be conditioned upon such air carrier's making appropriate compensation to such travelers and shippers, as prescribed by

the Board, for failure on the part of such carrier to perform air transportation services in accordance with agreements therefor.

CONTINUING REQUIREMENT

(r) The requirement that each applicant for a certificate or any other authority under this title must be found to be fit, willing, and able to perform properly the transportation covered by its application and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board under this Act, shall be a continuing requirement applicable to each such air carrier with respect to the transportation authorized by the Board. The Board shall by order, entered after notice and hearing, modify, suspend, or revoke such certificate or other authority, in whole or in part, for failure of such air carrier to comply with the continuing requirement that the air carrier be so fit, willing, and able, or for failure to file such reports as the Board may deem necessary to determine whether such air carrier is so fit, willing, and able. [49 U.S.C. App. 1371]

PERMITS TO FOREIGN AIR CARRIERS

PERMIT REQUIRED

SEC. 402. (a) No foreign air carrier shall engage in foreign air transportation unless there is in force a permit issued by the Board authorizing such carrier so to engage.

ISSUANCE OF PERMIT

(b) The Board is empowered to issue such a permit if it finds (1) that the applicant is fit, willing, and able properly to perform such foreign air transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder and (2) either that the applicant is qualified, and has been designated by its government, to perform such foreign air transportation under the terms of an agreement with the United States, or that such transportation will be in the public interest.

APPLICATION FOR PERMIT

(c) Application for a permit shall be made in writing to the Board, shall be so verified, shall be in such form and contain such information, and shall be accompanied by such proof of service upon such interested persons, as the Board shall by regulation require.

NOTICE OF APPLICATION

(d) Upon the filing of an application for a permit the Board shall give due notice thereof to the public by posting a notice of such application in the office of the secretary of the Board and to such other persons as the Board may by regulation determine. Any interested person may file with the Board a protest or memorandum of opposition to or in support of the issuance of a permit. The Board shall dispose of such application as speedily as possible.

TERMS AND CONDITIONS OF PERMIT

(e) The Board may prescribe the duration of any permit and may attach to such permit such reasonable terms, conditions, or limitations as, in its judgment, the public interest may require.

AUTHORITY TO MODIFY, SUSPEND, OR REVOKE

(f)(1) Any permit issued under the provisions of this section may, after notice and hearing, be altered, modified, amended, suspended, canceled, or revoked by the Board whenever it finds such action to be in the public interest. Any interested person may file with the Board a protest or memorandum in support of or in opposition to the alteration, modification, amendment, suspension, cancellation, or revocation of a permit.

(2) Whenever the Board finds that the government, aeronautical authorities, or foreign air carriers of any foreign country have, over the objections of the Government of the United States, impaired, limited, or denied the operating rights of United States air carriers, or engaged in unfair, discriminatory, or restrictive practices with a substantial adverse competitive impact upon United States carriers, with respect to air transportation services to, from, through, or over the territory of such country, the Board may, without hearing but subject to the approval of the President of the United States, summarily suspend the permits of the foreign air carriers of such country, or alter, modify, amend, condition, or limit operations under such permits, if it finds such action to be in the public interest. The Board may also, without hearing but subject to Presidential approval, to the extent necessary to make the operation of this paragraph effective, restrict operations between such foreign country and the United States by any foreign air carrier of a third country.

TRANSFER OF PERMIT

(g) No permit may be transferred unless such transfer is approved by the Board as being in the public interest.

PROCEDURES FOR PROCESSING APPLICATIONS FOR PERMITS

(h) The Board shall promulgate rules establishing simplified procedures for—

(1) the disposition of applications for a permit to engage in foreign air transportation pursuant to this section; and

(2) the alteration, amendment, modification, suspension, or transfer of all or any part of any permit pursuant to subsection (f) of this section.

Such rules shall provide for adequate notice and an opportunity for all interested persons to file appropriate written evidence and argument, but need not provide for oral evidentiary hearings. [49 U.S.C. App. 1372]

TARIFFS OF AIR CARRIERS

FILING OF TARIFFS REQUIRED

SEC. 403.¹ (a) Every air carrier and every foreign air carrier shall file with the Board, and print, and keep open to public inspection, tariffs showing all rates, fares, and charges for air transportation between points served by it, and between points served by it and points served by any other air carrier or foreign air carrier when through service and through rates shall have been established, and showing to the extent required by regulations of the Board, all classifications, rules, regulations, practices, and services in connection with such air transportation. Tariffs shall be filed, posted, and published in such form and manner, and shall contain such information, as the Board shall by regulation prescribe; and the Board is empowered to reject any tariff so filed which is not consistent with this section and such regulations. Any tariff so rejected shall be void. The rates, fares, and charges shown in any tariff shall be stated in terms of lawful money of the United States, but such tariffs may also state rates, fares, and charges in terms of currencies other than lawful money of the United States, and may, in the case of foreign air transportation, contain such information as may be required under the laws of any country in or to which an air carrier or foreign air carrier is authorized to operate.

OBSERVANCE OF TARIFFS; REBATING PROHIBITED

(b)(1) No air carrier or foreign air carrier or any ticket agent shall charge or demand or collect or receive a greater or less or different compensation for air transportation, or for any service in connection therewith, than the rates, fares, and charges specified in then currently effective tariffs of such air carrier or foreign air carrier; and no air carrier or foreign air carrier or ticket agent shall, in any manner or by any device, directly or indirectly, or through any agent or broker, or otherwise, refund or remit any portion of the rates, fares, or charges so specified, or extend to any person any privileges or facilities, with respect to matters required by the Board to be specified in such tariffs except those specified therein. Nothing in this Act shall prohibit such air carriers or foreign air carriers, under such terms and conditions as the Board may prescribe, from issuing or interchanging tickets or passes for free or reduced-rate transportation to their directors, officers, and employees (including retired directors, officers, and employees who are receiving retirement benefits from any air carrier or foreign air carrier), the parents and immediate families of such officers and employees, and the immediate families of such directors; widows, widowers, and minor children of employees who have died as a direct result of personal injury sustained while in the performance of duty in the service of such air carrier or foreign air carrier; witnesses and attorneys attending any legal investigation in which any such air carrier is interested; persons injured in aircraft accidents and physicians and nurses attending such persons; immedi-

¹ Section 403 authority terminated January 1, 1985, to extent provisions relate to interstate and overseas air transportation. Section 1601(a)(4)(B) of this Act.

ate families, including parents, of persons injured or killed in aircraft accidents where the object is to transport such persons in connection with such accident; and any person or property with the object of providing relief in cases of general epidemic, pestilence, or other calamitous visitation; and, in the case of overseas or foreign air transportation, to such other persons and under such other circumstances as the Board may by regulations prescribe. Any air carrier or foreign air carrier, under such terms and conditions as the Board may prescribe, may grant reduced-rate transportation on a space-available basis to any minister of religion, any person who is sixty years of age or older and retired, any person who is sixty-five years of age or older, and to any handicapped person and any attendant required by such handicapped person. For the purposes of this subsection, the term "handicapped person" means any person who has severely impaired vision or hearing, and any other physically or mentally handicapped person, as defined by the Board. For purposes of this subsection, the term "retired" means no longer gainfully employed as defined by the Board.

(2) No shipper, consignor, consignee, forwarder, broker, or other person, or any director, officer, agent, or employee thereof, shall knowingly pay, directly or indirectly, by any device or means, any greater or less or different compensation for air transportation of property, or for any service in connection therewith, than the rates, fares, and charges specified in currently effective tariffs applicable to such air transportation; and no such person shall, in any manner or by any device, directly or indirectly, through any agent or broker, or otherwise, knowingly solicit, accept, or receive a refund or remittance of any portion of the rates, fares, or charges so specified, or knowingly solicit, accept, or receive any privilege, favor, or facility, with respect to matters required by the Board to be specified in such tariffs, except those specified therein.

NOTICE OF TARIFF CHANGES

(c)(1) Except as provided in paragraph (2) of this subsection, no change shall be made in any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, specified in any effective tariff of any air carrier or foreign air carrier until thirty days after notice of the proposed change has been filed, posted, and published in accordance with subsection (a) of this section, except the Board may establish an alternative notice requirement, of not less than twenty-five days, to allow an air carrier or foreign air carrier to match the fares or charges specified in another air carrier's or foreign air carrier's proposed tariff. Any notice specified under this subsection shall plainly state the change proposed to be made and the time such change will take effect.

(2) If the effect of any proposed tariff change would be to institute a fare that is outside of the applicable range of fares specified in subparagraphs (A) and (B) of section 1002(d)(4) or subparagraphs (A), (B), and (C) of section 1002(j)(6) of this Act, or specified by the Board under section 1002(d)(7) or section 1002(j)(9) of this Act, or would be to institute a fare to which such range of fares does not apply, then such proposed change shall not be implemented except

after 60 days' notice filed in accordance with regulations prescribed by the Board.

(3) In exercising its power to suspend tariffs under sections 1002(g) and 1002(j) of this Act, the Board shall file and deliver a statement in writing of its reasons for such suspensions, as required under section 1002(g), at least thirty days before the date on which the affected tariff would otherwise go into effect.

FILING OF DIVISIONS OF RATES AND CHARGES REQUIRED

(d) Every air carrier or foreign air carrier shall keep currently on file with the Board, if the Board so requires, the established divisions of all joint rates, fares, and charges for air transportation in which such air carrier or foreign air carrier participates. [49 U.S.C. App. 1373]

RATES FOR CARRIAGE OF PERSONS AND PROPERTY

CARRIER'S DUTY TO PROVIDE SERVICE, RATES, AND DIVISIONS

SEC. 404.¹ (a)(1) It shall be the duty of every air carrier to provide and furnish interstate and overseas air transportation, as authorized by its certificate, upon reasonable request therefor and to provide reasonable through service in such air transportation in connection with other air carriers authorized to engage in scheduled air transportation by certificate or by exemption under section 416(b)(3) of this title; to provide safe and adequate service, equipment, and facilities in connection with such transportation; to establish, observe, and enforce just and reasonable individual and joint rates, fares, and charges, and just and reasonable classifications, rules, regulations, and practices relating to such air transportation; and, in case of such joint rates, fares, and charges, to establish just, reasonable, and equitable divisions thereof as between air carriers participating therein which shall not unduly prefer or prejudice any of such participating air carriers.

(2) It shall be the duty of every air carrier and foreign air carrier to establish, observe, and enforce just and reasonable individual and joint rates, fares, and charges, and just and reasonable classifications, rules, regulations, and practices relating to foreign air transportation; and, in case of such joint rates, fares, and charges, to establish just, reasonable, and equitable divisions thereof as between air carriers or foreign air carriers participating therein which shall not unduly prefer or prejudice any of such participating air carriers or foreign air carriers.

DISCRIMINATION

(b) No air carrier or foreign air carrier shall make, give, or cause any undue or unreasonable preference or advantage to any particular person, port, locality, or description of traffic in air transportation in any respect whatsoever or subject any particular person, port, locality, or description of traffic in air transportation to any

¹ Section 404 authority terminated January 1, 1985, to the extent provisions relate to interstate and overseas air transportation except insofar as provision requires carriers to provide safe and adequate service. Section 1601(a)(4)(C) of this Act.

unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

PROHIBITION ON DISCRIMINATION AGAINST HANDICAPPED INDIVIDUALS

(c)(1) No air carrier may discriminate against any otherwise qualified handicapped individual, by reason of such handicap, in the provision of air transportation.

(2) For the purposes of paragraph (1) of this subsection the term "handicapped individual" means any individual who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

PROHIBITION AGAINST SMOKING ON SCHEDULED FLIGHTS AND TAMPERING WITH SMOKE ALARM DEVICES

(d)(1)(A) On and after the date of expiration of the 4-month period following the date of the enactment of this subsection, it shall be unlawful to smoke in the passenger cabin or lavatory on any scheduled airline flight in intrastate, interstate, or overseas air transportation, if such flight is scheduled for 2 hours or less in duration.

(B) The Secretary of Transportation shall issue such regulations as may be necessary to carry out the provisions of this subsection.

(C) The provisions of paragraph (1) of this subsection are repealed effective on the expiration of the 28-month period following the date of enactment of this subsection.

(2) Any passenger who tampers with, disables, or destroys any smoke alarm device located in any lavatory aboard an aircraft engaged in air transportation or intrastate air transportation shall be subject to a civil penalty in accordance with section 901, except that such civil penalty may be imposed in an amount up to \$2,000. [49 U.S.C. App. 1374]

TRANSPORTATION OF MAIL

POSTAL RULES AND REGULATIONS

SEC. 405. (a) The Postmaster General is authorized to make such rules and regulations, not inconsistent with the provisions of this Act, or any order, rule, or regulation made by the Board thereunder, as may be necessary for the safe and expeditious carriage of mail by aircraft.

MAIL SCHEDULES

(b)¹ Each air carrier shall, from time to time, file with the Board and the Postmaster General a statement showing the points between which such air carrier is authorized to engage in air transportation, and all schedules, and all changes therein, of aircraft

¹ Section 405(b), (c), and (d) authority terminated January 1, 1985, insofar as provisions relate to interstate and overseas air transportation (except insofar as provisions relate to transportation of mail between two points both of which are within the State of Alaska). Section 1601(a)(4)(A) of this Act. Authority relating to transportation of mail between two points within Alaska will terminate January 1, 1989. Section 1601(a)(8) of this Act.

regularly operated by the carrier between such points, setting forth in respect of each such schedule the points served thereby and the time of arrival and departure at each such point. The Postmaster General may designate any such schedule for the transportation of mail between the points between which the air carrier is authorized by its certificate to transport mail, and may, by order, require the air carrier to establish additional schedules for the transportation of mail between such points. No change shall be made in any schedules designated or ordered to be established by the Postmaster General except upon ten days' notice thereof filed as herein provided. The Postmaster General may by order disapprove any such change or alter, amend, or modify any such schedule or change. No order of the Postmaster General under this subsection shall become effective until ten days after its issuance. Any person who would be aggrieved by any such order of the Postmaster General under this subsection may, before the expiration of such ten-day period, apply to the Board, under such regulations as it may prescribe, for a review of such order. The Board may review, and, if the public convenience and necessity so require, amend, revise, suspend, or cancel such order; and, pending such review and the determination thereof, may postpone the effective date of such order. The Board shall give preference to proceedings under this subsection over all proceedings pending before it. No air carrier shall transport mail in accordance with any schedule other than a schedule designated or ordered to be established under this subsection for the transportation of mail.

MAXIMUM MAIL LOAD

(c) ¹ The Board may fix the maximum mail load for any schedule or for any aircraft or any type of aircraft; but, in the event that mail in excess of the maximum load is tendered by the Postmaster General for transportation by any air carrier in accordance with any schedule designated or ordered to be established by the Postmaster General under subsection (b) of this section for the transportation of mail, such air carrier shall, to the extent such air carrier is reasonably able as determined by the Board, furnish facilities sufficient to transport, and shall transport, such mail as nearly in accordance with such schedule as the Board shall determine to be possible.

TENDER OF MAIL

(d) ¹ From and after the issuance of any certificate authorizing the transportation of mail by aircraft, the Postmaster General shall tender mail to the holder thereof, to the extent required by the Postal Service,² for transportation between the points named in such certificate for the transportation of mail, and such mail shall be transported by the air carrier holding such certificate in accordance with such rules, regulations, and requirements as may be promulgated by the Postmaster General under this section.

¹ See footnote 1, page 58.

² Now the United States Postal Service. Public Law 91-375 § 6(o), 84 Stat. 783.

FOREIGN POSTAL ARRANGEMENT

(e)(1) Nothing in this Act shall be deemed to abrogate or affect any arrangement made by the United States with the postal administration of any foreign country with respect to transportation of mail by aircraft, or to impair the authority of the Postmaster General to enter into any such arrangement with the postal administration of any foreign country.

(2) The Postmaster General may, in any case where service may be necessary by a person not a citizen of the United States who may not be obligated to transport the mail for a foreign country, make arrangements, without advertising, with such person for transporting mail by aircraft to or within any foreign country.

TRANSPORTATION OF FOREIGN MAIL

(f)(1) Any air carrier holding a certificate to engage in foreign air transportation and transporting mails of foreign countries shall transport such mails subject to control and regulation by the United States. The Postmaster General shall from time to time fix the rates of compensation that shall be charged the respective foreign countries for the transportation of their mails by such air carriers, and such rates shall be put into effect by the Postmaster General in accordance with the provisions of the postal convention regulating the postal relations between the United States and the respective foreign countries, or as provided hereinafter in this subsection. In any case where the Postmaster General deems such action to be in the public interest, he may approve rates provided in arrangements between any such air carrier and any foreign country covering the transportation of mails of such country, under which mails of such country have been carried on scheduled operations prior to January 1, 1938, or in extensions or modifications of such arrangements, and may permit any such air carrier to enter into arrangements with any foreign country for the transportation of its mails at rates fixed by the Postmaster General in advance of the making of any such arrangement. The Postmaster General may authorize any such air carrier, under such limitations as the Postmaster General may prescribe, to change the rates to be charged any foreign country for the transportation of its mails by such air carrier within that country or between that country and another foreign country.

(2) In any case where such air carrier has an arrangement with any foreign country for transporting its mails, made or approved in accordance with the provisions of paragraph (1) of this subsection, it shall collect its compensation from the foreign country under its arrangement, and in case of the absence of any arrangement between the air carrier and the foreign country consistent with this subsection, the collections made from the foreign country by the United States shall be for the account of such air carrier: *Provided*, That no such air carrier shall be entitled to receive compensation both from such foreign country and from the United States in respect of the transportation of the same mail or the same mails of foreign countries.

EVIDENCE OF PERFORMANCE OF MAIL SERVICE

(g) Air carriers transporting or handling United States mail shall submit, under signature of a duly authorized official, when and in such form as may be required by the Postmaster General, evidence of the performance of mail service; and air carriers transporting or handling mails of foreign countries shall submit, under signature of a duly authorized official, when and in such form as may be required by the Postmaster General, evidence of the amount of such mails transported or handled, and the compensation payable and received therefor.

EMERGENCY MAIL SERVICE

(h) In the event of emergency caused by flood, fire, or other calamitous visitation, the Postmaster General is authorized to contract, without advertising, for the transportation by aircraft of any or all classes of mail to or from localities affected by such calamity, where available facilities of persons authorized to transport mail to or from such localities are inadequate to meet the requirements of the Postal Service¹ during such emergency. Such contracts may be only for such periods as may be necessitated, for the maintenance of mail service, by the inadequacy of such other facilities. No operation pursuant to any such contract, for such period, shall be air transportation within the purview of this Act. Payment of compensation for service performed under such contracts shall be made, at rates provided in such contracts, from appropriations for the transportation of mail by the means normally used for transporting the mail transported under such contracts.

EXPERIMENTAL AIRMAIL SERVICE

(i) Nothing contained in this Act shall be construed to repeal in whole or in part the provisions of section 6 of the Act entitled "An Act to provide for experimental airmail service, to further develop safety, efficiency, economy, and for other purposes", approved April 15, 1938, as amended.² The transportation of mail under contracts entered into under such section shall not, except for sections 401(k) and 416(b), be deemed to be "air transportation" as used in this Act, and the rates of compensation for such transportation of mail shall not be fixed under this Act.

FREE TRAVEL FOR POSTAL EMPLOYEES

(j) Every air carrier carrying the mails shall carry on any plane that it operates and without charge therefor, the persons in charge of the mails when on duty, and such duly accredited agents and officers of the Post Office Department, and post office inspectors, while traveling on official business relating to the transportation of mail by aircraft, as the Board may by regulation prescribe, upon the exhibition of their credentials. [49 U.S.C. App. 1375]

¹ Now the United States Postal Service. Public Law 91-375 § 6(o), 84 Stat. 783.

² Now contained in section 5402 of title 39, United States Code. Public Law 86-682 § 5, 74 Stat. 705; Public Law 91-375 § 6(q), 84 Stat. 783.

RATES FOR TRANSPORTATION OF MAIL

AUTHORITY TO FIX RATES

SEC. 406.¹ (a) The Board is empowered and directed, upon its own initiative or upon petition of the Postmaster General or an air carrier, (1) to fix and determine from time to time, after notice and hearing, the fair and reasonable rates of compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith (including the transportation of mail by an air carrier by other means than aircraft whenever such transportation is incidental to the transportation of mail by aircraft or is made necessary by conditions of emergency arising from aircraft operation), by each holder of a certificate authorizing the transportation of mail by aircraft, and to make such rates effective from such date as it shall determine to be proper; (2) to prescribe the method or methods, by aircraft-mile, pound-mile, weight, space, or any combination thereof, or otherwise, for ascertaining such rates of compensation for each air carrier or class of air carriers; and (3) to publish the same. Nothing in this section shall prohibit the Board from making payments as compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, for the period August 1, 1973, through July 31, 1975, where such payments have already been provided by Board order, to the holder of a certificate authorizing the transportation of mail by aircraft, to the account or for the benefit of any air carrier designated an "air taxi operator" by the Board, which provided air transportation between points named in the holder's certificate in satisfaction of an express condition to the suspension by Board order of the holder's certificate authority to engage in air transportation between those points. In no event shall such payments differ from the amount previously provided by such Board order.

RATE-MAKING ELEMENTS

(b) In fixing and determining fair and reasonable rates of compensation under this section, the Board, considering the conditions peculiar to transportation by aircraft and to the particular air carrier or class of air carriers, may fix different rates for different air carriers or classes of air carriers, and different classes of service. In determining the rate in each case, the Board shall take into consideration, among other factors, (1) the condition that such air carriers may hold and operate under certificates authorizing the carriage of mail only by providing necessary and adequate facilities and service for the transportation of mail; (2) such standards respecting the character and quality of service to be rendered by air carriers as may be prescribed by or pursuant to law; and (3) the

¹ The authority of the Board to determine rates for the carriage of mail in interstate and overseas air transportation (except between two points within Alaska) was transferred to the Postal Service on January 1, 1985, to be exercised through negotiation or competitive bidding. Section 1601(b)(1)(D) of this Act. That authority with respect to two points within Alaska was transferred to the Department of Transportation on January 1, 1985 (section 1601(b)(1)(E) of this Act) and will be transferred to the Postal Service to be exercised through negotiations or competitive bidding on January 1, 1989. Section 1601(b)(3) of this Act.

need of each such air carrier (other than a charter air carrier) for compensation for the transportation of mail sufficient to insure the performance of such service, and—

(A) during the period beginning on the date of enactment of this clause and ending on January 1, 1983, both dates inclusive, together with all other revenue of the air carrier from the service for which the compensation is being paid; and

(B) after January 1, 1983, together with all other revenue of the air carrier;

to enable such air carrier under honest, economical, and efficient management, to provide (except for modifications with respect to an individual point determined after January 1, 1983, to be required by the public interest, after giving interested parties an opportunity for an evidentiary hearing with respect to air transportation for such individual point) air transportation of at least the same extent, character, and quality as that provided during the year ending December 31, 1977, to maintain and continue the development of air transportation to the extent and of the character and quality required for the commerce of the United States, the Postal Service,¹ and the national defense. Notwithstanding any other provision of this section, rates of compensation paid to any carrier under this section for service performed between the date of enactment of this sentence and January 1, 1983, shall be based on the subsidy need of such carrier with respect to service performed to points for which such carrier was entitled to receive compensation for serving during calendar year 1977. In the case of any local service carrier, such subsidy need shall be based on the adjusted eligible need of such carrier determined in a matter consistent with the provisions of Local Service Class Subsidy Rate VIII, with technical adjustments, and in the case of any other carrier receiving compensation during the twelve months ended June 30, 1978, such subsidy need shall be determined pursuant to the method in effect during the twelve months ended June 30, 1978. Any air carrier receiving compensation from the Board pursuant to this section which, before January 1, 1986, terminates service to a point for which such compensation is paid shall not, if such service is resumed by such air carrier, be eligible for compensation from the Board under this section for such service. Nothing in this subsection shall be construed as prohibiting any air carrier specified in the preceding sentence from applying for and receiving compensation for such service under section 419 of this title. In applying clause (3) of this subsection, the Board shall take into consideration any standards and criteria prescribed by the Secretary of Transportation, for determining the character and quality of transportation required for the commerce of the United States and the national defense. In determining compensation for any local service air carrier for the years 1964, 1965, and 1966 in accordance with the provisions of this subsection, the Board shall apply Local Service Class Subsidy Rates III and III-A as set forth in Board orders E-21311 and E-23850 (41 CAB 138 et seq. and 44 CAB 637 et seq.), except that the Board shall not apply that part of such order which re-

¹ Now the United States Postal Service. Public Law 91-375 § 6(o), 84 Stat. 783.

quires the Board to take into account any decrease in the Federal income tax liability of such carrier for such year resulting from any net operating loss carryback pursuant to section 172 of the Internal Revenue Code of 1954.

PAYMENT

(c) The Postmaster General shall make payments out of appropriations for the transportation of mail by aircraft of so much of the total compensation as is fixed and determined by the Board under this section without regard to clause (3) of subsection (b) of this section. The Board shall make payments of the remainder of the total compensation payable under this section out of appropriations made to the Board for that purpose. The Board shall make no payments under this section for any services performed after January 1, 1986.¹

¹ Title II of the Department of Transportation and Related Agencies Appropriations Act, 1983 (Public Law 97-369), making appropriations for the Civil Aeronautics Board for payments to air carriers provided as follows: "... notwithstanding any other provision of law, none of the funds hereafter appropriated by this or any other Act shall be expended under section 406 (49 U.S.C. 1376) for services provided after September 30, 1982: *Provided further*, That, notwithstanding any other provision of law or of the previous provision of this paragraph, payments shall be made from funds appropriated herein and in accordance with the provisions of this paragraph to carriers providing, as of September 30, 1982, services covered by rates fixed under section 406 of the Federal Aviation Act (excluding services covered by payments under section 419(a)(7) and services in the State of Alaska): *Provided further*, That, notwithstanding any other provision of law, such payments shall be based upon rate orders applicable to such carriers as of July 1, 1982, but shall not exceed \$13,500,000 in the aggregate: *Provided further*, That, notwithstanding any other provision of law, to the extent necessary to meet this limitation, such payments shall be reduced by a percentage which is the same for all carriers eligible for such payments: *Provided further*, That nothing in this Act shall be deemed to prevent the Board from granting an application under section 419(a)(11)(A) (49 U.S.C. 1389) pertaining to a carrier receiving compensation under this Act, in which event the standards and procedures set forth in section 419(a)(11)(A) shall apply."

Section 322 of Public Law 97-369 provides as follows:

"Sec. 322. (a) Any air carrier having a claim for compensation under section 406 or 419(a)(7)(B) of the Federal Aviation Act of 1958, decided by the Civil Aeronautics Board (hereinafter referred to as the 'Board') may bring an action directly on the claim in the United States Claims Court as provided in section 10(a) of the Contract Disputes Act of 1978 with respect to claims which have been decided by a contracting officer. Failure by the Board to issue a final decision on a final claim within one year after it was filed with the Board, or by the date of enactment of this section, whichever is later, shall be deemed to be a decision by the Board denying the claim, and will authorize an action on the claim as provided in this section. This section shall apply to any claim decided, or deemed to have been decided, by the Board after January 1, 1981, including any claim remanded to the Board by a United States court of appeals irrespective of when the claim was filed with the Board. Any action under this section shall be filed within one hundred and twenty days after the claim has been decided or is deemed to have been decided by the Board, or within one hundred and twenty days after the date of enactment of this section, whichever is later. Any petition for review of a decision of the Board with respect to any such claim pending in a United States court of appeals on the date of enactment of this section shall be dismissed without prejudice upon motion of the petitioner.

"(b) Except as provided herein, the following provisions of the Contract Disputes Act of 1978 shall apply with respect to any claim to which this section applies as if such claim were a claim with respect to a decision of a contracting officer under section 10(a) of such Act and as if the Board were a contracting officer:

"(1) Section 12, relating to interest, which shall be payable by decision of the Board or the Court of Claims at the rates provided in such section, not to precede the date of enactment of the Contract Disputes Act of 1978.

"(2) Section 13, relating to the payment of claims and judgments.

"(3) Section 14(i), relating to the jurisdiction of the United States Claims Court.

"(c) If an administrative law judge has issued an initial decision after a hearing on the record in the case before the Board, the court may, in its discretion, rely upon the evidence adduced at such hearing and may give such initial decision such weight as it deems appropriate."

TREATMENT OF PROCEEDS OF DISPOSITION OF CERTAIN PROPERTY

(d) In determining the need of an air carrier for compensation for the transportation of mail, and such carrier's "other revenue" for the purpose of this section, the Board shall not take into account—

(1) gains derived from the sale or other disposition of flight equipment if (A) the carrier notifies the Board in writing that it has invested or intends to reinvest the gains (less applicable expenses and taxes) derived from such sale or other disposition in flight equipment, and (B) submits evidence in the manner prescribed by the Board that an amount equal to such gains (less applicable expenses and taxes) has been expended for purchase of flight equipment or has been deposited in a special reequipment fund, or

(2) losses sustained from the sale or other disposition of flight equipment.

Any amounts so deposited in a reequipment fund as above provided shall be used solely for investment in flight equipment either through payments on account of the purchase price or construction of flight equipment or in retirement of debt contracted for the purchase or construction of flight equipment, and unless so reinvested within such reasonable time as the Board may prescribe, the carrier shall not have the benefit of this paragraph. Amounts so deposited in the reequipment fund shall not be included as part of the carrier's used and useful investment for purposes of section 406 until expended as provided above: *Provided*, That the flight equipment in which said gains may be invested shall not include equipment delivered to the carrier prior to April 6, 1956: *Provided further*, That the provisions of this subsection shall be effective as to all capital gains or losses realized on and after April 6, 1956, with respect to the sale or other disposition of flight equipment whether or not the Board shall have entered a final order taking account thereof in determining all other revenue of the air carrier.

STATEMENT OF POSTMASTER GENERAL AND CARRIER

(e) Any petition for the fixing of fair and reasonable rates of compensation under this section shall include a statement of the rate the petitioner believes to be fair and reasonable. The Postmaster General shall introduce as part of the record in all proceedings under this section a comprehensive statement of all service to be required of the air carrier and such other information in his possession as may be deemed by the Board to be material to the inquiry.

WEIGHING OF MAIL

(f) The Postmaster General may weigh the mail transported by aircraft and make such computations for statistical and administrative purposes as may be required in the interest of the mail service. The Postmaster General is authorized to employ such clerical and other assistance as may be required in connection with proceedings under this Act. If the Board shall determine that it is necessary or advisable, in order to carry out the provisions of this Act, to have additional and more frequent weighing of the mails, the

Postmaster General, upon request of the Board shall provide therefor in like manner, but such weighing need not be for continuous periods of more than thirty days.

AVAILABILITY OF APPROPRIATIONS

(g) Except as otherwise provided in section 405(h), the unexpended balances of all appropriations for the transportation of mail by aircraft pursuant to contracts entered into under the Air Mail Act of 1934, as amended, and the unexpended balances of all appropriations available for the transportation of mail by aircraft in Alaska, shall be available, in addition to the purposes stated in such appropriations, for the payment of compensation by the Postmaster General, as provided in this Act, for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between points in the continental United States or between points in Hawaii or in Alaska or between points in the continental United States and points in Canada within one hundred and fifty miles of the international boundary line. Except as otherwise provided in section 405(h), the unexpended balances of all appropriations for the transportation of mail by aircraft pursuant to contracts entered into under the Act of March 8, 1928, as amended, shall be available, in addition to the purposes stated in such appropriations, for payment to be made by the Postmaster General, as provided by this Act, in respect of the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between points in the United States and points outside thereof, or between points in the continental United States and Territories or possessions of the United States, or between Territories or possessions of the United States.

PAYMENTS TO FOREIGN AIR CARRIERS

(h)(1) In any case where air transportation is performed between the United States and any foreign country, both by aircraft owned or operated by one or more air carriers holding a certificate under this title and by aircraft owned or operated by one or more foreign air carriers, the Postmaster General shall not pay to or for the account of any such foreign air carrier a rate of compensation for transporting mail by aircraft between the United States and such foreign country, which, in his opinion, will result (over such reasonable period as the Postmaster General may determine, taking account of exchange fluctuations and other factors) in such foreign air carrier receiving a higher rate of compensation for transporting such mail than such foreign country pays to air carriers for transporting its mail by aircraft between such foreign country and the United States, or receiving a higher rate of compensation for transporting such mail than a rate determined by the Postmaster General to be comparable to the rate such foreign country pay to air carriers for transporting its mail by aircraft between such foreign country and intermediate country on the route of such air carrier between such foreign country and the United States.

(2) The Secretary of State and the Postmaster General each shall take all necessary and appropriate actions to assure that the rates paid for the transportation of mail pursuant to the Universal

Postal Union Convention shall not be higher than fair and reasonable rates for such services. The Secretary of State and the Postmaster General shall oppose any present or proposed Universal Postal Union rates which are higher than such fair and reasonable rates.

(3) The Civil Aeronautics Board shall act expeditiously on any proposed changes in rates for the transportation of mail by aircraft in foreign air transportation. In establishing such rates, the Board shall take into consideration rates paid for transportation of mail pursuant to the Universal Postal Union Convention as ratified by the United States Government, shall take into account all of the ratemaking elements employed by the Universal Postal Union in fixing its airmail rates, and shall further consider the competitive disadvantage to United States flag air carriers resulting from foreign air carriers receiving Universal Postal Union rates for the carriage of United States mail and the national origin mail of their own countries. [49 U.S.C. App. 1376]

ACCOUNTS, RECORDS, AND REPORTS

FILING OF REPORTS

SEC. 407. (a) The Board is empowered to require annual, monthly, periodical, and special reports from any air carrier or foreign air carrier; to prescribe the manner and form in which such reports shall be made; and to require from any air carrier or foreign air carrier specific answers to all questions upon which the Board may deem information to be necessary. Such reports shall be under oath whenever the Board so requires. The Board may also require any air carrier or foreign air carrier to file with it a true copy of each or any contract, agreement, understanding, or arrangement, between such air carrier or foreign air carrier and any other carrier or person, in relation to any traffic affected by the provisions of this Act.

[(b), (c)]¹

FORM OF ACCOUNTS

(d) The Board shall prescribe the forms of any and all accounts, records, and memoranda to be kept by air carriers, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of money, and the length of time such accounts, records, and memoranda shall be preserved; and it shall be unlawful for air carriers to keep any accounts, records, or memoranda other than those prescribed or approved by the Board: *Provided*, That any air carrier may keep additional accounts, records, or memoranda if they do not impair the integrity of the accounts, records, or memoranda prescribed or approved by the Board and do not constitute an undue financial burden on such air carrier.

¹ Section 407(b) and (c) authority terminated January 1, 1985. Section 1601(a)(5)(A) of this Act.

INSPECTION OF ACCOUNTS AND PROPERTY

(e) The Board shall have access to all lands, buildings, and equipment of any air carrier or foreign air carrier when necessary for a determination under section 401, 402, 418, or 419 of this title that such carrier is fit, willing, and able. The Board shall at all times have access to all accounts, records, and memorandums, including all documents, papers, and correspondence, now or hereafter existing, and kept or required to be kept by air carriers, foreign air carriers, or ticket agents. The Board may employ special agents or auditors, who shall have authority under the orders of the Board to inspect and examine lands, buildings, equipment, accounts, records, and memorandums to which the Board has access under this subsection. The provisions of this section shall apply, to the extent found by the Board to be reasonably necessary for the administration of this Act, to persons having control over any air carrier, or affiliated with any air carrier within the meaning of section 5(8) of the Interstate Commerce Act, as amended.¹ [49 U.S.C. App. 1377]

[SEC. 408.]²

[SEC. 409.]³

[SEC. 410.]⁴

METHODS OF COMPETITION

INVESTIGATIONS

SEC. 411. (a) The Board may, upon its own initiative or upon complaint by any air carrier, foreign air carrier, or ticket agent, if it considers that such action by it would be in the interest of the public, investigate and determine whether any air carrier, foreign air carrier, or ticket agent has been or is engaged in unfair or deceptive practices or unfair methods of competition in air transportation or the sale thereof. If the Board shall find, after notice and hearing, that such air carrier, foreign air carrier, or ticket agent is engaged in such unfair or deceptive practices or unfair methods of competition, it shall order such air carrier, foreign air carrier, or ticket agent to cease and desist from such practices or methods of competition.

INCORPORATION BY REFERENCE

(b) Any air carrier may incorporate by reference in any ticket or other written instrument any of the terms of the contract of carriage in interstate and overseas air transportation, to the extent such incorporation by reference is in accordance with regulations issued by the Board. [49 U.S.C. App. 1381]

¹ Now contained in section 11343(c) of title 49, United States Code. Public Law 95-473 § 3(b), 92 Stat. 1466.

² Section 408 authority terminated January 1, 1989. Section 1601(a)(7) of this Act.

³ Section 409 authority terminated January 1, 1989. Section 1601(a)(7) of this Act.

⁴ Section 410 authority terminated January 1, 1985. Section 1601(a)(5)(B) of this Act.

POOLING AND OTHER AGREEMENTS

FILING AND APPROVAL OF AGREEMENTS

SEC. 412. (a) ¹ (1) Any air carrier or foreign air carrier may file with the Board a true copy, or, if oral, a true and complete memorandum, of any contract or agreement (whether enforceable by provisions for liquidated damages, penalties, bonds, or otherwise), or a request for authority to discuss possible cooperative working arrangements in force on the effective date of this subsection, or thereafter entered into, or any modification or cancellation thereof, between such air carrier or foreign air carrier and any other air carrier, foreign air carrier, or other carrier.

(2)(A) The Board shall by order disapprove any contract, agreement, or request filed pursuant to paragraph (1) of this subsection, whether or not previously approved by it, that it finds to be adverse to the public interest or in violation of this Act, and shall by order approve any contract, agreement, or request, or any modification or cancellation thereof, that it does not find to be adverse to the public interest, or in violation of this Act, except that—

(i) the Board may not approve or, after periodic review, continue its approval of any such contract, agreement, or request, or any modification or cancellation thereof, which substantially reduces or eliminates competition, unless it finds that the contract, agreement, or request is necessary to meet a serious transportation need or to secure important public benefits, including international comity or foreign policy considerations, and it does not find that such need can be met or such benefits can be secured by reasonably available alternative means having materially less anticompetitive effects;

(ii) the Board may not approve any contract or agreement between an air carrier not directly engaged in the operation of aircraft in air transportation and a common carrier subject to the Interstate Commerce Act, as amended,² governing the compensation to be received by such common carrier for transportation services performed by it; and

(iii) the Board may not approve any such contract or agreement, affecting interstate or overseas air transportation, or any modification or cancellation thereof, that limits the level of capacity among air carriers in markets in which they compete, that fixes rates, fares, or charges between or among air carriers (except for joint rates, fares, or charges).

(B) In any proceeding before the Board involving the application of the standards set forth in subparagraph (A)(i) of this paragraph, the party opposing the proposed contract, agreement, or request shall have the burden of proving the reduction or elimination of competition, and the availability of alternative means having less anticompetitive effects, and the party defending the proposed contract, agreement, or request shall have the burden of proving transportation need or public benefits.

¹ The authority of the Board under section 412 (a) and (b) terminated January 1, 1989, insofar as provisions relate to interstate and overseas air transportation. Section 1601(a)(6) of this Act.

² Now subtitle IV of title 49, United States Code. Public Law 95-473 § 3(b), 92 Stat. 1466.

(C) The findings required by subparagraph (A)(i) of this paragraph, shall be included in any order of the Board approving or disapproving any contract or agreement, or any memorandum of any contract or agreement, or any modification or cancellation thereof, or any request.

PROCEEDINGS UPON FILING

(b) ¹ Upon the filing of any contract or agreement, or any modification or cancellation thereof, or any request for authority to discuss possible cooperative working arrangements, pursuant to subsection (a) of this section, the Board, in accordance with regulations which it prescribes, shall provide to the Attorney General, the Secretary of State, and the Secretary of Transportation written notice of, and an opportunity to submit written comments on, the filed document. The Board may, upon its own initiative or if requested by the Attorney General or either Secretary, hold a hearing, in accordance with regulations prescribed by the Board, to determine if a contract or agreement, or request for discussion authority, whether or not previously approved, is consistent with the provisions of this Act.

MUTUAL AID AGREEMENTS

(c)(1) Notwithstanding any other provision of law, any mutual aid agreement between air carriers which was approved by the Board before the date of enactment of this subsection and which is in effect on such date of enactment shall be deemed disapproved and not in effect on and after such date of enactment.

(2) No air carrier shall enter into any mutual aid agreement with any other air carrier, unless such air carrier files a true copy of such agreement with the Board and the Board approves such agreement pursuant to the provisions of this section. Notwithstanding subsection (a) of this section, the Board shall not approve any such agreement unless such agreement provides (A) that any air carrier will not receive payments for any period which exceed 60 per centum of the direct operating expenses during such period, (B) that benefits under the agreement are not payable for more than eight weeks during any labor strike, and that such benefits may not be for losses incurred during the first thirty days of any labor strike, and (C) that any party to such agreement will agree to submit the issues causing any labor strike to binding arbitration pursuant to the Railway Labor Act if the striking employees request such binding arbitration.

(3) For purposes of this subsection, the term—

(A) "mutual aid agreement" means any contract or agreement between air carriers which provides that any such air carrier will receive payments from the other air carriers which are parties to such contract or agreement for any period during which such air carrier is not engaging in air transportation, or is providing reduced levels of service in air transportation, due to a labor strike; and

¹ See footnote 1, p. 69.

(B) "direct operating expenses" includes interest expenses but does not include depreciation or amortization expenses. [49 U.S.C. App. 1382]

FORM OF CONTROL

SEC. 413. For the purposes of this title, whenever reference is made to control, it is immaterial whether such control is direct or indirect. [49 U.S.C. App. 1383]

ANTITRUST EXEMPTION

SEC. 414.¹ In any order made under section 408, 409, or 412 of this Act, the Board may, as part of such order, exempt any person affected by such order from the operations of the "antitrust laws" set forth in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12) to the extent necessary to enable such person to proceed with the transaction specifically approved by the Board in such order and those transactions necessarily contemplated by such order, except that the Board may not exempt such person unless it determines that such exemption is required in the public interest. Notwithstanding the preceding sentence, on the basis of the findings required by subsection (a)(2)(A)(i) of section 412, the Board shall, as part of any order under such section which approves any contract, agreement, or request or any modification or cancellation thereof, exempt any person affected by such order from the operations of the "anti-trust laws" set forth in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12) to the extent necessary to enable such person to proceed with the transaction specifically approved by the Board in such order and with those transactions necessarily contemplated by such order. [49 U.S.C. App. 1384]

INQUIRY INTO AIR CARRIER MANAGEMENT

SEC. 415. For the purpose of exercising and performing its powers and duties under this Act, the Board is empowered to inquire into the management of the business of any air carrier and, to the extent reasonably necessary for any such inquiry, to obtain from such carrier, and from any person controlling or controlled by, or under common control with, such air carrier, full and complete reports and other information. [49 U.S.C. App. 1385]

CLASSIFICATION AND EXEMPTION OF CARRIERS

CLASSIFICATION

SEC. 416. (a) The Board may from time to time establish such just and reasonable classifications or groups of air carriers for the purposes of this title as the nature of the services performed by such air carriers shall require; and such just and reasonable rules and regulations, pursuant to and consistent with the provisions of this

¹ The authority of the Board under section 414 (relating to orders made under sections 412 (a) and (b) with respect to interstate and overseas air transportation and relating to sections 408 and 409) terminated January 1, 1989. Section 1601(a) (6) and (7) of this Act.

title, to be observed by each such class or group, as the Board finds necessary in the public interest.

EXEMPTIONS

(b)(1) Except as provided in paragraph (2) of this subsection, the Board, from time to time and to the extent necessary, may exempt from the requirements of this title or any provision thereof, or any rule, regulation, term, condition, or limitation prescribed thereunder, any person or class of persons if it finds that the exemption is consistent with the public interest.

(2) The Board shall not exempt any air carrier from any provision of subsection (k) of section 401 of this title, except that (A) any air carrier not engaged in scheduled air transportation, and (B), to the extent that the operations of such air carrier are conducted during daylight hours, any air carrier engaged in scheduled air transportation, may be exempted from the provisions of paragraphs (1) and (2) of such subsection if the Board finds, after notice and hearing, that, by reason of the limited extent of, or unusual circumstances affecting, the operations of any such air carrier, the enforcement of such paragraphs is or would be such an undue burden on such air carrier as to obstruct its development and prevent it from beginning or continuing operations, and that the exemption of such air carrier from such paragraphs would not adversely affect the public interest: *Provided*, That nothing in this subsection shall be deemed to authorize the Board to exempt any air carrier from any requirement of this title, or any provision thereof, or any rule, regulation, term, condition, or limitation prescribed thereunder which provides for maximum flying hours for pilots or copilots.

(3) The Board may by order relieve foreign air carriers who are not directly engaged in the operation of aircraft in foreign air transportation from the provisions of this Act to the extent and for such periods as such relief may be in the public interest.

(4) Subject to paragraph (5) of this subsection, any air carrier in air transportation which provides (A) passenger service solely with aircraft having a maximum passenger capacity of less than fifty-six passengers, or (B) cargo service in air transportation solely with aircraft having a maximum payload capacity of less than eighteen thousand pounds, shall be exempt from the requirements of subsection (a) of section 401 of this title, and of such other sections of this Act as may be prescribed in regulations promulgated by the Board, if such air carrier conforms to such liability insurance requirements and such other reasonable regulations as the Board shall from time to time adopt in the public interest. The Board may by regulation increase the passenger or property capacities specified in this paragraph when the public interest so requires.

(5) The exemption from section 401 of this title or any other requirement of this Act shall not apply to any air transportation by any air carrier between points both of which are in the State of Alaska, or one of which is in the State of Alaska and the other in Canada, unless such air carrier also holds authority to provide such air transportation from the State of Alaska.

(6) Any air carrier operating within the State of Alaska pursuant to the exemption from section 401 of this title shall not be subject

to any limitation, promulgated by the Board, on the number or location of points to be served by such air carrier, or any limitation on the frequency of service by such air carrier to points within such State, unless the Board, after a hearing, finds that the operation of such air carrier substantially impairs the ability of a certificated air carrier to provide the service authorized by its certificate, including but not limited to, the minimum service requirement for such State specified in section 419(c)(2) of this title.

(7) The Board may by order, to the extent it finds that such action is required in the public interest, exempt any foreign air carrier for a period not to exceed 30 days from the requirements and limitations of this Act, to the extent necessary to authorize the foreign air carrier to carry passengers, cargo, or mail in interstate or overseas air transportation in certain markets if the Board, after consultation with the Secretary of Transportation, finds that—

(A) because of an emergency created by unusual circumstances not arising in the normal course of business, traffic in such markets cannot be accommodated by air carriers holding certificates under section 401 of this Act;

(B) all possible efforts have been made to accommodate such traffic by utilizing the resources of such air carriers (including, for example, the use of foreign aircraft, or sections of foreign aircraft, that are under lease or charter to such air carriers, and the use of such air carriers' reservation systems to the extent practicable);

(C) such authorization is necessary to avoid undue hardship for the traffic in such market that cannot be accommodated by air carriers holding certificates under section 401 of this Act; and

(D) in any case where the inability to accommodate traffic in a market results from a labor dispute, the granting of such an exemption will not result in an undue advantage to any party to such dispute.

Whenever the Board grants such authority to a foreign air carrier under this paragraph, the Board shall—

(i) assure that any air transportation provided by the foreign carrier under such authority is made available on fair and reasonable terms;

(ii) continuously monitor the passenger load factor of air carriers in such market that hold certificates under section 401 of this Act; and

(iii) review such authority no less frequently than once every 30 days to assure that the unusual circumstances that created the need for such authority still exist.

The Board may renew any exemption under this paragraph (including any renewal thereof) for a period not to exceed 30 days. In no event shall any authorization to a foreign air carrier under this paragraph remain in effect for more than 5 days after the unusual circumstances that created the need for such authorization have ceased. [49 U.S.C. App. 1386]

[SEC. 417.]¹

¹ Section 417 authority terminated January 1, 1985. Section 1601(a)(5)(C) of this Act.

CERTIFICATE FOR ALL-CARGO AIR SERVICE

APPLICATION

SEC. 418. (a)(1) Any citizen of the United States who has a valid certificate issued under section 401(d)(1) of this title and who provided scheduled all-cargo air service at any time during the period from January 1, 1977, through the date of enactment of this section may, during the forty-five day period which begins on the date of enactment of this section, submit an application to the Board for a certificate under this section to provide all-cargo air service. Such application shall contain such information and be in such form as the Board shall by regulation require.

(2) Any citizen of the United States who (A) operates pursuant to an exemption granted by the Board under section 416 of this title, and (B) provided scheduled all-cargo air service continuously (other than for interruptions caused by labor disputes) during the 12-month period ending on the date of enactment of this section, or whose predecessor in interest provided such service during such period, may, during the forty-five-day period which begins on the date of enactment of this section, submit an application to the Board for a certificate under this section to provide all-cargo air service. Such application shall contain such information and be in such form as the Board shall by regulation require.

(3) Any citizen of the United States who has a valid certificate issued under section 401(d)(3) of this title and who provided supplemental air transportation carrying only cargo at any time during the period from January 1, 1977, through the date of enactment of this section may, during the forty-five day period beginning on April 1, 1978, submit an application to the Board for a certificate under this section to provide all-cargo air service. Such application shall contain such information and be in such form as the Board shall by regulation require.

(4) After the three hundred and sixty-fifth day which begins after the date of enactment of this section, any citizen of the United States may submit an application to the Board for a certificate under this section to provide all-cargo air service. Such application shall contain such information and be in such form as the Board shall by regulation require.

ISSUANCE AND REVOCATION OF CERTIFICATE

(b)(1)(A) Not later than sixty days after any application is submitted pursuant to paragraph (1), (2), or (3) of subsection (a) of this section, the Board shall issue a certificate under this section authorizing the all-cargo air service covered by the application.

(B) No later than one hundred and eighty days after any application is submitted pursuant to paragraph (4) of subsection (a) of this section, the Board shall issue a certificate under this section authorizing the whole or any part of the all-cargo air service covered by the application unless it finds that the applicant is not fit, willing, and able to provide such service and to comply with any rules and regulations promulgated by the Board.

(2) Any certificate issued by the Board under this section may contain such reasonable conditions and limitations as the Board

deems necessary, except that such terms and conditions shall not restrict the points which may be served, or the rates which may be charged, by the holder of such certificate.

(4)¹ If any all-cargo air service authorized by a certificate issued under this subsection is not performed to the minimum extent prescribed by the Board, it may by order, entered after notice and opportunity for a hearing, direct that such certificate shall, thereafter, cease to be effective to the extent of such service.

EXEMPTIONS

(c) Any applicant who is issued a certificate under this section shall, with respect to any all-cargo air service provided in accordance with such certificate, be exempt from the requirements of section 401(a) of this Act, and any other section of this Act which the Board by rule determines appropriate, and any rule, regulation, or procedure issued pursuant to any such section.

AIR CARRIER STATUS

(d) Any applicant who is issued a certificate under this section shall be an air carrier for the purposes of this Act, except to the extent such carrier is exempt from any requirement of the Act pursuant to this section. [49 U.S.C. App. 1388]

SEC. 419. SMALL COMMUNITY AIR SERVICE.

(a) **ELIGIBLE POINT DEFINED.**—For the purposes of this section, the term “eligible point” means any point in the United States—

(1) which is defined as an eligible point under this section as in effect before October 1, 1988, and which, at any time in the 12-month period ending on such date, received scheduled air transportation, and

(2) which the Secretary determines is 45 highway miles or more from the nearest hub airport.

(b) **BASIC ESSENTIAL AIR SERVICE.**—

(1) **LEVEL OF SERVICE.**—

(A) **DETERMINATION FOR ESSENTIAL AIR SERVICE POINTS.**—

With respect to each eligible point for which a determination of what constitutes essential air transportation was made under this section before October 1, 1988, the Secretary shall determine what is basic essential air service for such point. Such determination shall be made no later than the last day of the 1-year period beginning on the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987 and only after consideration of the views of any interested community and the State agency of the State in which such community is located.

(B) **DETERMINATION FOR OTHER POINTS.**—With respect to each eligible point for which a determination of what constitutes essential air transportation was not made before October 1, 1988, the Secretary shall determine what is basic essential air service to such point if the Secretary re-

¹ Section 418(b)(3) was repealed by Public Law 98-443, § 9(a)(2).

ceives notice that service to such point will be provided by only 1 air carrier. Such determination shall be made no later than the last day of the 6-month period beginning on the date on which the Secretary receives such notice and only after the Secretary considers the views of any interested community and the State agency of the State in which such community is located. The Secretary may impose such notice requirements as may be necessary to implement this subparagraph.

(C) CONTINUATION OF REQUIREMENT; TRANSITION PROVISIONS.—An air carrier required to provide essential air transportation before October 1, 1988, to an eligible point shall be required to continue to provide such transportation to such point after such date and the level of such transportation shall be deemed to be basic essential air service for purposes of this subsection until a determination is made under subparagraph (A) with respect to such point. The rate of compensation in effect for essential air transportation before such date shall continue in effect until a new rate is determined in accordance with the guidelines under subsection (f) of this section.

(D) REVIEW.—The Secretary shall periodically review the basic essential air service level for each eligible point, and may, based upon such review and consultations with the interested community and the State agency of the State in which such community is located, make appropriate adjustments to the basic essential air service level.

(2) NOTICE REQUIRED BEFORE TERMINATION, SUSPENSION, OR REDUCTION IN SERVICE.—An air carrier may not terminate, suspend, or reduce air transportation to any eligible point below the level of basic essential air service established under paragraph (1) unless such air carrier has given the Secretary, the appropriate State agency or agencies, and the communities affected at least 90 days notice before such termination, suspension, or reduction.

(3) DETERMINATION OF NEED FOR COMPENSATION.—

(A) SELECTION OF CARRIER.—Whenever the Secretary determines that basic essential air service will not be provided to an eligible point without compensation, the Secretary shall provide notice that applications may be submitted by any air carrier that is willing to provide such service to such point for compensation under this subsection. In selecting an applicant to provide basic essential air service to a point for compensation the Secretary shall, among other factors, consider—

(i) the applicant's demonstrated reliability in providing scheduled air service;

(ii) the contractual and marketing arrangements that the applicant has made with a larger air carrier to assure service beyond the hub airport;

(iii) the interline arrangements which the applicant has made with a larger air carrier which allow passengers and cargo of the applicant at the hub airport to

be transported by such large carrier through one reservation, one ticket, and one baggage check-in;

(iv) the preferences of the actual and potential users of air transportation at the eligible point, giving substantial weight to the views of elected officials representing such users; and

(v) with respect to any eligible point in the State of Alaska, the experience of an applicant in providing scheduled air service, or significant patterns of non-scheduled air service pursuant to an exemption granted pursuant to section 416 of this title, in Alaska.

(B) RATE OF COMPENSATION.—The Secretary shall establish, in accordance with the guidelines promulgated under subsection (f), the rate of compensation to be paid for providing basic essential air service under this subsection.

(4) PAYMENT OF COMPENSATION.—The Secretary shall make payments of compensation under this subsection at times and in a manner determined by the Secretary to be appropriate. The Secretary shall continue to pay compensation to any air carrier to provide basic essential air service to an eligible point only for so long as the Secretary determines it is necessary in order to maintain basic essential air service to such point.

(5) REQUIREMENT TO CONTINUE SERVICE.—If an air carrier has provided notice to the Secretary under paragraph (2) of such air carrier's intention to suspend, terminate, or reduce service to any eligible point below the level of basic essential air service to such point, and if at the conclusion of the applicable period of notice the Secretary has not been able to find another air carrier to provide basic essential air service to such point, the Secretary shall require the carrier which provided such notice to continue such service to such point for an additional 30-day period, or until another air carrier has begun to provide basic essential air service to such point, whichever first occurs. If at the end of such 30-day period the Secretary determines that no other air carrier can be secured to provide basic essential air service to such eligible point on a continuing basis, either with or without compensation, then the Secretary shall extend such requirement for such additional 30-day periods (making the same determination at the end of each such period) as may be necessary to continue basic essential air service to such eligible point until an air carrier can be secured to provide basic essential air service to such eligible point on a continuing basis.

(6) COMPENSATION FOR CONTINUED SERVICE.—

(A) CARRIERS RECEIVING COMPENSATION.—If an air carrier (i) which is providing air transportation to any eligible point, and (ii) which is receiving compensation under this subsection for providing such transportation, is required by the Secretary to continue service to such point beyond the date on which such carrier would, but for paragraph (5), be able to suspend, terminate, or reduce such service below the level of basic essential air service to such point, then after such date such carrier shall continue to receive

such compensation until the Secretary secures another air carrier to provide basic essential air service to such point or the 90th day following such date, whichever is earlier. If, after such 90th day, the Secretary has not secured another air carrier to provide such service, the carrier required to continue to provide such service shall receive compensation in an amount sufficient—

(i) to cover the carrier's fully allocated actual cost of performing the basic essential air service that was being provided at the time the 90-day notice of termination, suspension, or reduction of service is given to the Secretary under paragraph (2) plus a fair and reasonable return on investment which shall not be less than 5 percent of operating costs; and

(ii) to provide the carrier an additional return which recognizes the demonstrated additional lost profits from opportunities foregone and the likelihood that such lost profits increase as the duration of the required basic essential air service increases.

(B) CARRIERS NOT RECEIVING COMPENSATION.—If the Secretary requires an air carrier which is providing air transportation to an eligible point without compensation pursuant to paragraph (4) to continue to provide basic essential air service to such point beyond the 90-day notice period after which, but for paragraph (5) of this subsection, such air carrier would be able to suspend, terminate, or reduce service to such point below basic essential air service for such point, then the Secretary shall compensate such air carrier in an amount sufficient—

(i) to cover the carrier's fully allocated actual cost of performing the basic essential air service that was being provided at the time the 90-day notice of termination, suspension, or reduction of service is given to the Secretary under paragraph (2) plus a fair and reasonable return on investment which shall not be less than 5 percent of operating costs; and

(ii) to provide the carrier an additional return which recognizes the demonstrated additional lost profits from opportunities foregone and the likelihood that such lost profits increase as the duration of the required basic essential air service increases.

(7) TRANSFER OF OPERATIONAL AUTHORITY AT CERTAIN HIGH-DENSITY AIRPORTS.—If an air carrier which is providing basic essential air service under this subsection between an eligible point and an airport at which the Administrator limits the number of instrument flight rule takeoffs and landings of aircraft provides notice to the Secretary of its intention to suspend, terminate, or reduce such service and another air carrier is secured to provide such service on a continuing basis, the Secretary shall require the carrier suspending, terminating, or reducing such service to transfer any operational authority which such carrier has to conduct a landing or takeoff at such airport with respect to such service to the carrier secured to

provide such service unless the carrier secured to provide such service does not need such authority or such authority is being used to provide air service with respect to more than 1 eligible point.

(8) **EFFORT TO SECURE CARRIERS.**—During any period for which the Secretary requires an air carrier to continue providing air transportation to an eligible point which such air carrier has proposed to terminate, reduce, or suspend, the Secretary shall continue to make every effort to secure an air carrier to provide at least basic essential air service to such eligible point, on a continuing basis.

(9) **PROHIBITION ON CERTAIN REDUCTIONS IN SERVICE.**—Unless the Secretary has determined what is basic essential air service for any eligible point pursuant to paragraph (1) of this subsection, the Secretary shall, upon petition of any appropriate representative of such point prohibit any termination, suspension, or reduction of air transportation which reasonably appears to deprive such point of basic essential air service, until the Secretary has completed such determination.

(c) **ENHANCED ESSENTIAL AIR SERVICE.**—

(1) **PROPOSAL.**—

(A) **SUBMISSION.**—A State or local government may submit a proposal to the Secretary for enhanced essential air service to an eligible point with respect to which basic essential air service is being provided under subsection (b).

(B) **CONTENTS.**—A proposal submitted under this subsection shall specify the level and type of enhanced essential air service which the State or local government considers appropriate. Such proposal shall also include an agreement relating to compensation required for the proposed enhanced essential air service. Such agreement shall be subject to the requirements of subparagraph (C).

(C) **COMPENSATION AGREEMENT.**—The agreement relating to compensation included in the proposal submitted by a State or local government under this subsection shall either—

(i) provide for the State or local government or any person to pay 50 percent of the compensation required for the proposed enhanced essential air service and for the Federal share of such compensation to be 50 percent; or

(ii) provide for the Federal share for such compensation to be 100 percent and provide that, if the proposed service is not successful in terms of the criteria established under paragraph (3)(C) for not less than a 2-year period, the eligible point shall not be eligible for air service for which compensation is payable by the Secretary under this section.

(2) **ESTABLISHMENT OF SERVICE.**—Not later than 90 days after receiving a proposal under paragraph (1), the Secretary shall issue a decision on the proposal. The Secretary shall approve such proposal unless the Secretary determines that such proposal is not reasonable. If the Secretary determines that such

proposal is not reasonable, the Secretary shall disapprove such proposal and notify the State or local government submitting such proposal of such disapproval and the reasons therefor.

(3) REVIEW.—

(A) PROPOSALS FOR 50 PERCENT FEDERAL SHARE.—If the enhanced essential air service approved under this subsection is to be at a 50 percent Federal share, the Secretary shall periodically review the level and type of such service to an eligible point and may, based upon such review and consultations with the community and the government or person paying the non-Federal share, make appropriate adjustments to the level and type of enhanced essential air service to such point.

(B) PROPOSALS FOR 100 PERCENT FEDERAL SHARE.—If the enhanced essential air service approved under this subsection is to be at a 100 percent Federal share, the Secretary shall periodically review air service provided to an eligible point under this subsection. If the Secretary finds, after consultation with the State or local government which submitted the proposal, that such service has not been successful in terms of the criteria established under subparagraph (C) for not less than a 2-year period, such eligible point shall not be eligible for air service for which compensation is payable by the Secretary under this section.

(C) CRITERIA OF SUCCESS.—The Secretary shall establish, by regulation, objective criteria for determining whether or not enhanced essential air service to an eligible point provided under this subsection is successful in terms of increasing passenger usage of the airport facilities at such point and reducing the amount of compensation provided by the Secretary under this subsection for such service.

(4) NOTICE BEFORE TERMINATION, SUSPENSION, OR REDUCTION OF SERVICE.—An air carrier may not terminate, suspend, or reduce air transportation to an eligible point for which a determination of enhanced essential air service has been made below the level of such service approved by the Secretary under this subsection unless such carrier has given the Secretary, the community affected, and the government or person paying the non-Federal share at least 30 days' notice before such termination, suspension, or reduction. Nothing in this paragraph relieves an air carrier of its obligations under subsection (b).

(5) PAYMENT OF COMPENSATION.—The Secretary shall make payments of compensation under this subsection at times and in a manner determined by the Secretary to be appropriate. The Secretary shall continue to pay the compensation to an air carrier to provide enhanced essential air service to an eligible point only for so long as such carrier maintains the level of enhanced essential air service and the government or person agreeing to pay any non-Federal share continues to pay such share and only for so long as the Secretary determines it is necessary in order to maintain such service to such point.

(6) **PAYMENT OF NON-FEDERAL SHARE.**—The Secretary may require appropriate payment in advance or such other security to assure that non-Federal payments for enhanced essential air service under this subsection are made on a timely basis.

(7) **COMPENSATION FOR ENHANCED ESSENTIAL AIR SERVICE DEFINED.**—For purposes of this subsection, compensation for enhanced essential air service to an eligible point covers only those costs incurred for providing air service to such point which are in addition to the costs incurred for providing basic essential air service to such point under this section.

(d) **COMPENSATION FOR SERVICE TO OTHER SMALL COMMUNITIES.**—

(1) **PROPOSAL.**—A State or local government may make a proposal to the Secretary for compensated air transportation in accordance with this subsection to a point that is not an eligible point under this section.

(2) **DETERMINATION OF ELIGIBILITY.**—

(A) **DESIGNATION OF POINTS.**—Not later than 90 days after the submission of a proposal under this subsection, the Secretary—

(i) shall determine whether or not to designate the point for which such proposal is made as eligible to receive compensation under this subsection; and

(ii) shall approve or disapprove such proposal and notify the State or local government submitting such proposal of such decision.

The Secretary shall approve such proposal if the State or local government submitting the proposal or any other person is willing and able to pay 50 percent of the cost of providing the proposed compensated air transportation; except that the Secretary shall disapprove such proposal if the Secretary determines that such proposal is not reasonable. In the case of disapproval of a proposal, the notification of such disapproval must include the reasons for such disapproval.

(B) **SMALL COMMUNITY SERVICE.**—Notwithstanding subparagraph (A)(ii), the Secretary shall approve a proposal submitted under this subsection for compensated air transportation to a point in the 48 contiguous States and designate such point as eligible for compensation under this subsection—

(i) if, at any time before October 23, 1978, the point was served by an air carrier that held a certificate issued under section 401;

(ii) if the point is more than 50 miles from the nearest small hub airport or an eligible point;

(iii) if the point is more than 150 miles from the nearest hub airport; and

(iv) if the State or local government submitting the proposal or any other person is willing and able to pay 25 percent of the cost of providing the proposed compensated air transportation.

(C) **CRITERIA FOR DETERMINING REASONABLENESS.**—In determining whether or not a proposal submitted under this

subsection is reasonable, the Secretary shall consider, among other factors, the traffic generating potential of the point, the cost to the Federal Government of providing the proposed service, and the distance of the point from the closest hub airport.

(D) **WITHDRAWAL OF DESIGNATION.**—After notice and an opportunity for any interested person to comment, the Secretary may withdraw the designation of a point under subparagraph (A) as eligible to receive compensation under this subsection if the point has received air service under this subsection for at least 2 years and the Secretary determines that withdrawal of that designation would be in the public interest. The Secretary shall establish, by regulation, standards for determining whether or not withdrawal of a designation under this paragraph is in the public interest. Such standards shall include, but not be limited to, the factors set forth in subparagraph (C).

(3) **LEVEL OF SERVICE.**—

(A) **INITIAL DETERMINATION.**—If the Secretary designates a point under paragraph (2), the Secretary shall determine the level of service to be provided under this subsection. The Secretary shall determine such level after considering the views of any interested community, the State agency of the State in which the point is located, and the government or person agreeing to pay the non-Federal share of the cost of the proposed service. The Secretary shall determine such level not later than 6 months after the date on which the Secretary designates such point under paragraph (2).

(B) **REVIEW.**—The Secretary shall periodically review the level of air service provided under this subsection and may, based upon such review and consultation with any interested community, any State agency of the State in which the community is located, and any government or person providing the non-Federal share of the compensation for the service, make appropriate adjustments in the level of service.

(4) **SELECTION OF CARRIER.**—After making the determinations required by paragraph (3) with respect to a designated point, the Secretary shall provide notice that applications may be submitted by any air carrier that is willing to provide the level of air service determined under paragraph (3) with respect to such point. In selecting an applicant to provide such service the Secretary shall, among other factors, consider the factors set forth in subsection (b)(3)(A) and shall also consider the views of the government or person paying the non-Federal share of the cost of the service.

(5) **NON-FEDERAL SHARE.**—Except as provided in paragraph (2)(B), the non-Federal share for compensation required for providing air service under this subsection shall be 50 percent.

(6) **NOTICE BEFORE TERMINATION, SUSPENSION, OR REDUCTION OF SERVICE.**—An air carrier may not terminate, suspend, or reduce air transportation to an eligible point for which com-

pensation is paid under this subsection below the level of such service established by the Secretary under paragraph (3) unless such carrier has given the Secretary, the community affected, and the government or person paying the non-Federal share at least 30 days' notice before such termination, suspension, or reduction.

(7) **PAYMENT OF COMPENSATION.**—The Secretary shall make payments of compensation under this subsection at times and in a manner determined by the Secretary to be appropriate. The Secretary shall continue to pay compensation to an air carrier to provide service to a point designated under this subsection only for so long as such carrier maintains such service and the government or person agreeing to pay the non-Federal share continues to pay such share and only for so long as the Secretary determines it is necessary in order to maintain such service to such point.

(8) **PAYMENT OF NON-FEDERAL SHARE.**—The Secretary may require appropriate payment in advance or such other security to assure that the non-Federal payments for air service under this subsection are timely made.

(e) **FITNESS.**—

(1) **GENERAL RULE.**—Notwithstanding section 416(b) of this title, the Secretary shall prohibit any air carrier from providing service to an eligible point and from providing service to a point designated under subsection (d), unless the Secretary determines that such air carrier—

(A) is fit, willing, and able to perform such service; and

(B) that all aircraft which will be used to perform such service and all operations relating to such service will conform to the safety standards established by the Administrator.

(2) **LIMITATION ON COMPENSATION.**—The Secretary may not pay compensation to any air carrier for providing air service under this section unless the Secretary finds that such carrier is able to provide the air service in a reliable manner.

(f) **GUIDELINES FOR COMPENSATION.**—The Secretary shall establish guidelines to be used in computing the fair and reasonable amount of compensation required to ensure the continuation of air service under this section. Such guidelines shall provide for a reduction in compensation in any case in which an air carrier fails to perform any agreed upon air service. Such guidelines shall take into account amounts needed by air carriers to promote public use of the service for which compensation is to be made and shall include expense elements based upon representative costs of air carriers providing scheduled air transportation of persons, property, and mail, using aircraft of the type determined by the Secretary to be appropriate for providing such service. Amounts needed for promotion of such service shall be a special, segregated element of the required compensation.

(g) **DEADLINE FOR PAYMENT OF COMPENSATION.**—Not later than 15 days after receiving a written claim for compensation from an air carrier for providing air service under this section, the Secretary shall pay the Federal share of such claim or deny payment of the

Federal share of such claim and notify the carrier of such denial and the reasons therefor.

(h) **INSURANCE.**—An air carrier shall not receive compensation under this section unless such air carrier complies with regulations or orders issued by the Secretary governing the filing and approval of policies of insurance or plans for self-insurance in the amount prescribed by the Secretary which are conditioned to pay, within the amount of such insurance, amounts for which such air carrier may become liable for bodily injuries to or the death of any person, or for loss of or damage to property of others, resulting from the operation or maintenance of aircraft.

(i) **CARRIER OBLIGATIONS.**—If 2 or more air carriers enter into an agreement to operate under or use a single air carrier designator code to provide air transportation, the air carrier whose code is being used under such agreement shall share responsibility with the other carriers for the quality of service provided under such code to the public by such other carriers.

(j) **ENCOURAGEMENT OF JOINT AIR SERVICE PROPOSALS.**—The Secretary shall encourage the submission of joint proposals by 2 or more air carriers for providing air service under this section through arrangements which will maximize service to and from major destinations beyond the hub.

(k) **DEFINITIONS.**—For purposes of this section—

(1) **BASIC ESSENTIAL AIR SERVICE.**—The term “basic essential air service” means scheduled air transportation of persons and cargo to a hub airport (or, in any case in which the nearest hub airport is more than 400 miles and in the case of Alaska, to a small hub or nonhub airport) which has convenient connecting or single-plane air service to a substantial number of destinations beyond such airport. Such transportation shall include, at least, the following elements:

(A)(i) with respect to a point not in the State of Alaska, 2 daily round trips 6 days per week, with not more than 1 intermediate stop on each flight; or

(ii) with respect to a point in the State of Alaska, a level of service that is not less than that which existed in calendar year 1976, or 2 round trips per week, whichever is greater, unless otherwise specified under an agreement between the Secretary and the State agency of the State of Alaska, after consultation with the community affected;

(B) flights at reasonable times taking into account the needs of passengers with connecting flights at such airport and at rates, fares, and charges which are not excessive when compared to the generally prevailing fares of other air carriers for like service between similar pairs of points;

(C) with respect to a point not in the State of Alaska, service provided in an aircraft with an effective capacity of at least 15 passengers if the average daily enplanements at such point in any calendar year beginning after December 31, 1975, and ending on or before December 31, 1986, exceeded 11 passengers unless—

(i) requiring such service would require the payment of compensation in a fiscal year under subsection (b)(4)

or (b)(6) with respect to such point when no compensation under such subsection would otherwise be paid with respect to such point in such fiscal year; or

(ii) the community concerned agrees in writing with the Secretary to the use of smaller aircraft to provide service to such point;

(D) service which accommodates the estimated passenger and cargo traffic at an average load factor of not greater than—

(i) 50 percent, or

(ii) in any case in which such service is being provided with aircraft with 15 passenger seats or more, 60 percent,

for each class of traffic taking into account seasonal demands for such service;

(E) service provided in an aircraft with at least 2 engines and using 2 pilots, unless scheduled air transportation in aircraft with at least 2 engines and using 2 pilots has not been provided with respect to the point on each of 60 consecutive operating days at any time since October 31, 1978; and

(F) in the case of service which regularly exceeds 8,000 feet in altitude, service provided with pressurized aircraft.

(2) ENHANCED ESSENTIAL AIR SERVICE.—The term “enhanced essential air service” means scheduled air transportation to an eligible point of a higher level or quality than basic essential air service.

(3) HUB AIRPORT.—The term “hub airport” means an airport that annually has 0.25 percent or more of the total annual enplanements in the United States.

(4) NONHUB AIRPORT.—The term “nonhub airport” means an airport that annually has less than 0.05 percent of the total annual enplanements in the United States.

(5) SMALL HUB AIRPORT.—The term “small hub airport” means an airport that annually has 0.05 percent or more, but less than 0.25 percent, of the total annual enplanements in the United States.

(1) DURATION OF PROGRAM.—This section shall not be in effect after September 30, 1998. [49 U.S.C. App. 1389]

TITLE V—NATIONALITY AND OWNERSHIP OF AIRCRAFT

REGISTRATION OF AIRCRAFT NATIONALITY

REGISTRATION REQUIRED

SEC. 501. (a) It shall be unlawful for any person to operate or navigate any aircraft eligible for registration if such aircraft is not registered by its owner as provided in this section, or (except as provided in section 1108 of this Act) to operate or navigate within the United States any aircraft not eligible for registration: *Provided*, That aircraft of the national-defense forces of the United States may be operated and navigated without being so registered if such aircraft are identified, by the agency having jurisdiction over them,

in a manner satisfactory to the Administrator. The Administrator may, by regulation, permit the operation and navigation of aircraft without registration by the owner for such reasonable periods after transfer of ownership thereof as the Administrator may prescribe.

ELIGIBILITY FOR REGISTRATION

- (b) An aircraft shall be eligible for registration if, but only if—
(1)(A) it is—

(i) owned by a citizen of the United States or by an individual citizen of a foreign country who has lawfully been admitted for permanent residence in the United States; or

(ii) owned by a corporation (other than a corporation which is a citizen of the United States) lawfully organized and doing business under the laws of the United States or any State thereof so long as such aircraft is based and primarily used in the United States; and

- (B) it is not registered under the laws of any foreign country;
or

(2) it is an aircraft of the Federal Government, or of a State, territory, or possession of the United States or the District of Columbia or a political subdivision thereof.

For purposes of this subsection, the Secretary of Transportation shall, by regulation, define the term "based and primarily used in the United States".

ISSUANCE OF CERTIFICATE

- (c) Upon request of the owner of any aircraft eligible for registration, such aircraft shall be registered by the Administrator and the Administrator shall issue to the owner thereof a certificate of registration.

APPLICATIONS

- (d) Applications for such certificates shall be in such form, be filed in such manner, and contain such information as the Administrator may require.

SUSPENSION OR REVOCATION

- (e)(1) Any such certificate may be suspended or revoked by the Administrator for any cause which renders the aircraft ineligible for registration.

(2)(A) The Administrator shall issue an order revoking the certificate of registration issued to an owner under this section for an aircraft and each other certificate or registration held by such owner under this section, if the Administrator determines that—

(i) such aircraft has been used to carry out an activity, or to facilitate an activity, that is punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than any law relating to simply possession of a controlled substance); and

(ii) the use of the aircraft was permitted by such owner with the knowledge that the aircraft was intended to be used for an activity described in clause (i) of this subparagraph.

For purposes of this paragraph, an owner of an aircraft who is not an individual shall be considered to have permitted the use of an aircraft with knowledge that it was intended to be used for an activity described in clause (i) of this subparagraph only if a majority of the individuals who control such owner or who are involved in forming the major policy of such owner permitted the use of the aircraft with knowledge of such intended use. The Administrator shall not revoke, and the National Transportation Safety Board on appeal under subparagraph (B) shall not affirm the revocation of, a certificate under this paragraph on the basis of any activity if the holder of the certificate is acquitted of all charges contained in an indictment or information which relate to controlled substances and which arise from such activity.

(B) Prior to revoking any certificate of registration under this subsection, the Administrator shall advise the holder thereof of the charges or any reasons relied upon by the Administrator for his proposed action and shall provide the holder of the certificate of registration an opportunity to answer any charges and be heard as to why such certificate should not be revoked. Any person whose certificate of registration is revoked by the Administrator under this subsection may appeal the Administrator's order to the National Transportation Safety Board and the Board shall, after notice and a hearing on the record, affirm or reverse the Administrator's order. In the conduct of its hearings, the National Transportation Safety Board shall not be bound by findings of fact of the Administrator. The filing of an appeal with the National Transportation Safety Board shall stay the effectiveness of the Administrator's order unless the Administrator advises the Board that safety in air commerce or air transportation requires the immediate effectiveness of his order, in which event the order shall remain effective and the Board shall finally dispose of the appeal within 60 days after being so advised by the Administrator. The person substantially affected by the National Transportation Safety Board's order may obtain judicial review of such order under the provisions of section 1006, and the Administrator shall be made a party to such proceedings.

(C) For purposes of this paragraph, the term "controlled substance" has the meaning given such term by section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

(D) Except as provided in subparagraphs (E) and (F), the Administrator shall not issue a certificate of registration to any person who has had a certificate revoked under subparagraph (A) of this paragraph during the five-year period beginning on the date of such revocation.

(E) The Administrator may issue a certificate of registration for an aircraft to any such person before the end of such five-year period (but not before the end of the one-year period beginning on the date of such revocation) if the Administrator determines that such aircraft is otherwise eligible for registration under this section and (i) that revocation of the certificate for such five-year period would be excessive considering the nature of the offense or the act committed and the burden which revocation places on such person, or (ii) that revocation of the certificate for such five-year period

would not be in the public interest. The determinations under clauses (i) and (ii) of the preceding sentence shall be within the discretion of the Administrator and any such determination or failure to make such a determination shall not be subject to administrative or judicial review.

(F) In any case in which the Administrator has revoked the certificate of registration as a result of any activity and such person is subsequently acquitted of all charges contained in an indictment or information which relate to controlled substances and which arise from such activity, the Administrator shall issue a certificate of registration to such person if such person is otherwise qualified for such a certificate under this section.

EFFECT OF REGISTRATION

(f) Such certificate shall be conclusive evidence of nationality for international purposes, but not in any proceeding under the laws of the United States. Registration shall not be evidence of ownership of aircraft in any proceeding in which such ownership by a particular person is, or may be, in issue.

INSPECTION BY LAW ENFORCEMENT OFFICERS

(g) The operator of an aircraft shall make available for inspection an aircraft's certificate of registration upon request by a Federal, State, or local law enforcement officer.

MODIFICATION OF SYSTEM

(h) The Administrator is authorized and directed to make such modifications in the system established under this title for registration and recordation of aircraft as may be necessary to make such system more effective in serving the needs of buyers and sellers of aircraft, officials responsible for enforcement of laws relating to the regulation of controlled substances (as defined in section 102 of the Controlled Substances Act), and other users of such system. Such modifications may include a system of titling aircraft or of registering all aircraft whether or not operated, shall assure positive, verifiable, and timely identification of the true owner, and shall address, at a minimum, each of the following deficiencies in and abuses of the existing system:

- (1) The registration of aircraft to fictitious persons.
- (2) The use of false or nonexistent addresses by persons registering aircraft.
- (3) The use by a person registering an aircraft of a post office box or "mail drop" as a return address for the purpose of evading identification of such person's address.
- (4) The registration of aircraft to corporations and other entities established to facilitate unlawful activities.
- (5) The submission of names of individuals on applications for registration of aircraft which are not identifiable.
- (6) The ability to make frequent legal changes in the registration markings which are assigned to aircraft.
- (7) The use of false registration markings on aircraft.
- (8) The illegal use of "reserved" registration markings on aircraft.

(9) The large number of aircraft which are classified as being in "self-reported status".

(10) The lack of a system to assure timely and adequate notice of the transfer of ownership of aircraft.

(11) The practice of allowing temporary operation and navigation of aircraft without issuance of a certificate of registration under this section. [49 U.S.C. App. 1401]

REGISTRATION OF ENGINES, PROPELLERS, AND APPLIANCES

SEC. 502. The Administrator may establish reasonable rules and regulations for registration and identification of aircraft engines, propellers, and appliances, in the interest of safety, and no aircraft engine, propeller, or appliance shall be used in violation of any such rule or regulation. [49 U.S.C. App. 1402]

RECORDATION OF AIRCRAFT OWNERSHIP

ESTABLISHMENT OF RECORDING SYSTEM

SEC. 503. (a) The Administrator shall establish and maintain a system for the recording of each and all of the following:

(1) Any conveyance which affects the title to, or any interest in, any civil aircraft of the United States;

(2) Any lease, and any mortgage, equipment trust, contract of conditional sale, or other instrument executed for security purposes, which lease or other instrument affects the title to, or any interest in, any specifically identified aircraft engine or engines of seven hundred and fifty or more rated takeoff horsepower for each such engine or the equivalent of such horsepower, or any specifically identified aircraft propeller capable of absorbing seven hundred and fifty or more rated takeoff shaft horsepower, and also any assignment or amendment thereof or supplement thereto;

(3) Any lease, and any mortgage, equipment trust, contract of conditional sale, or other instrument executed for security purposes, which lease or other instrument affects the title to, or any interest in, any aircraft engines, propellers, or appliances maintained by or on behalf of an air carrier certificated under section 604(b) of this Act for installation or use in aircraft, aircraft engines, or propellers, or any spare parts maintained by or on behalf of such an air carrier, which instrument need only describe generally by types the engines, propellers, appliances, and spare parts covered thereby and designate the location or locations thereof; and also, any assignment or amendment thereof or supplement thereto.

RECORDING OF RELEASES

(b) The Administrator shall also record under the system provided for in subsection (a) of this section any release, cancellation, discharge, or satisfaction relating to any conveyance or other instrument recorded under said system.

CONVEYANCES TO BE RECORDED

(c) No conveyance or instrument the recording of which is provided for by section 503(a) shall be valid in respect of such aircraft, aircraft engine or engines, propellers, appliances, or spare parts against any person other than the person by whom the conveyance or other instrument is made or given, his heir or devisee, or any person having actual notice thereof, until such conveyance or other instrument is filed for recordation in the office of the Administrator: *Provided*, That previous recording of any conveyance or instrument with the Administrator of the Civil Aeronautics Administration under the provisions of the Civil Aeronautics Act of 1938 shall have the same force and effect as though recorded as provided herein; and conveyances, the recording of which is provided for by section 503(a)(1) made on or before August 21, 1938, and instruments, the recording of which is provided for by sections 503(a)(2) and 503(a)(3) made on or before June 19, 1948, shall not be subject to the provisions of this subsection.

EFFECT OF RECORDING

(d) Each conveyance or other instrument recorded by means of or under the system provided for in subsection (a) or (b) of this section shall from the time of its filing for recordation be valid as to all persons without further or other recordation, except that an instrument recorded pursuant to section 503(a)(3) shall be effective only with respect to those of such items which may from time to time be situated at the designated location or locations and only while so situated: *Provided*, That an instrument recorded under section 503(a)(2) shall not be affected as to the engine or engines, or propeller or propellers, specifically identified therein, by any instrument theretofore or thereafter recorded pursuant to section 503(a)(3).

[FORM OF CONVEYANCES] ¹

(e) Except as the Administrator may by regulation prescribe, no conveyance or other instrument shall be recorded unless it shall have been acknowledged before a notary public or other officer authorized by the law of the United States, or of a State, territory, or possession thereof, or the District of Columbia, to take acknowledgment of deeds.

INDEX OF CONVEYANCES

(f) The Administrator shall keep a record of the time and date of the filing of conveyances and other instruments with him and of the time and date of recordation thereof. He shall record conveyances and other instruments filed with him in the order of their reception, in files to be kept for that purpose, and indexed according to—

- (1) the identifying description of the aircraft, aircraft engine, or propeller, or in the case of an instrument referred to in section 503(a)(3), the location or locations specified therein; and

¹ Subsection heading not reinserted by amendment of subsection.

(2) the names of the parties to the conveyance or other instrument.

REGULATIONS

(g) The Administrator is authorized to provide by regulation for the endorsement upon certificates of registration, or aircraft certificates, of information with respect to the ownership of the aircraft for which each certificate is issued, the recording of discharges and satisfactions of recorded instruments, and other transactions affecting title to or interest in aircraft, aircraft engines, propellers, appliances, or parts, and for such other records, proceedings, and details as may be necessary to facilitate the determination of the rights of parties dealing with civil aircraft of the United States, aircraft engines, propellers, appliances, or parts.

PREVIOUSLY UNRECORDED OWNERSHIP

(h) The person applying for the issuance or renewal of an airworthiness certificate for an aircraft with respect to which there has been no recordation of ownership as provided in this section shall present with his application such information with respect to the ownership of the aircraft as the Administrator shall deem necessary to show the persons who are holders of property interests in such aircraft and the nature and extent of such interests. [49 U.S.C. App. 1403]

LIMITATION OF SECURITY OWNERS LIABILITY

SEC. 504. No person having a security interest in, or security title to, any civil aircraft, aircraft engine, or propeller under a contract of conditional sale, equipment trust, chattel or corporate mortgage, or other instrument of similar nature, and no lessor of any such aircraft, aircraft engine, or propeller under a bona fide lease of thirty days or more, shall be liable by reason of such interest or title, or by reason of his interest as lessor or owner of the aircraft, aircraft engine, or propeller so leased, for any injury to or death of persons, or damage to or loss of property, on the surface of the earth (whether on land or water) caused by such aircraft, aircraft engine, or propeller, or by the ascent, descent, or flight of such aircraft, aircraft engine, or propeller or by the dropping or falling of an object therefrom, unless such aircraft, aircraft engine, or propeller is in the actual possession or control of such person at the time of such injury, death, damage, or loss. [49 U.S.C. App. 1404]

DEALERS' AIRCRAFT REGISTRATION CERTIFICATES

SEC. 505. The Administrator may, by such reasonable regulations as he may find to be in the public interest, provide for the issuance, and for the suspension or revocation, of dealers' aircraft registration certificates, and for their use in connection with aircraft eligible for registration under this Act by persons engaged in the business of manufacturing, distributing, or selling aircraft. Aircraft owned by holders of dealers' aircraft registration certificates shall be deemed registered under this Act to the extent that the Administrator may, by regulation, provide. It shall be unlawful for any

person to violate any regulation, or any term, condition, or limitation contained in any certificate, issued under this section. [49 U.S.C. App. 1405]

LAW GOVERNING VALIDITY OF CERTAIN INSTRUMENTS

SEC. 506. The validity of any instrument the recording of which is provided for by section 503 of this Act shall be governed by the laws of the State, District of Columbia, or territory or possession of the United States in which such instrument is delivered, irrespective of the location or the place of delivery of the property which is the subject of such instrument. Where the place of intended delivery of such instrument is specified therein, it shall constitute presumptive evidence that such instrument was delivered at the place so specified. [49 U.S.C. App. 1406]

TITLE VI—SAFETY REGULATION OF CIVIL AERONAUTICS

GENERAL SAFETY POWERS AND DUTIES

MINIMUM STANDARDS; RULES AND REGULATIONS

SEC. 601. (a) The Administrator is empowered and it shall be his duty to promote safety of flight of civil aircraft in air commerce by prescribing and revising from time to time:

- (1) Such minimum standards governing the design, materials, workmanship, construction, and performance of aircraft, aircraft engines, and propellers as may be required in the interest of safety;
- (2) Such minimum standards governing appliances as may be required in the interest of safety;
- (3) Reasonable rules and regulations and minimum standards governing, in the interest of safety, (A) the inspection, servicing, and overhaul of aircraft, aircraft engines, propellers, and appliances; (B) the equipment and facilities for such inspection, servicing, and overhaul; and (C) in the discretion of the Administrator, the periods for, and the manner in, which such inspection, servicing, and overhaul shall be made, including provision for examinations and reports by properly qualified private persons whose examinations or reports the Administrator may accept in lieu of those made by its officers and employees;
- (4) Reasonable rules and regulations governing the reserve supply of aircraft, aircraft engines, propellers, appliances, and aircraft fuel and oil, required in the interest of safety, including the reserve supply of aircraft fuel and oil which shall be carried in flight;
- (5) Reasonable rules and regulations governing, in the interest of safety, the maximum hours or periods of service of airmen, and other employees, of air carriers; and
- (6) Such reasonable rules and regulations, or minimum standards, governing other practices, methods, and procedure, as the Administration may find necessary to provide adequately for national security and safety in air commerce.

NEEDS OF SERVICE TO BE CONSIDERED; CLASSIFICATION OF STANDARDS,
ETC.

(b) In prescribing standards, rules, and regulations, and in issuing certificates under this title, the Administrator shall give full consideration to the duty resting upon air carriers to perform their services with the highest possible degree of safety in the public interest and to any differences between air transportation and other air commerce; and he shall make classifications of such standards, rules, regulations, and certificates appropriate to the differences between air transportation and other air commerce. The Administrator may authorize any aircraft, aircraft engine, propeller, or appliance, for which an aircraft certificate authorizing use thereof in air transportation has been issued, to be used in other air commerce without the issuance of a further certificate. The Administrator shall exercise and perform his powers and duties under this Act in such manner as will best tend to reduce or eliminate the possibility of, or recurrence of, accidents in air transportation, but shall not deem himself required to give preference to either air transportation or other air commerce in the administration and enforcement of this title.

EXEMPTIONS

(c) The Administrator from time to time may grant exemptions from the requirements of any rule or regulation prescribed under this title if he finds that such action would be in the public interest.

EMERGENCY LOCATOR TRANSMITTERS ¹

(d)(1) Except with respect to aircraft described in paragraph (2) of this subsection and except as provided in paragraph (3) of this subsection, minimum standards pursuant to this section shall include a requirement that emergency locator transmitters shall be installed—

(A) on any fixed-wing, powered civil aircraft for use in air commerce the manufacture of which is completed, or which is imported into the United States, after one year following the date of enactment of this subsection; and

(B) on any fixed-wing, powered civil aircraft used in air commerce after three years and six months following such date.

(2) The provisions of this subsection shall not apply to:

(A) Turbojet-powered aircraft;

(B) Aircraft while engaged in scheduled flights by scheduled air carriers certificated by the Board;

(C) Aircraft while engaged in training operations conducted entirely within a fifty-mile radius of the airport from which such local flight operations began;

(D) Aircraft while engaged in flight operations incident to design and testing;

¹ This subsection and the following subsection were both originally added as (d); Public Law 93-239 amended (d) in its entirety, presumably the first (d); 95-163 relettered second (d) as (e).

(E) New aircraft while engaged in flight operations incident to their manufacture, preparation, and delivery;

(F) Aircraft while engaged in flight operations incident to the aerial application of chemicals and other substances for agriculture purposes;

(G) Aircraft certificated by the Administrator for research and development purposes;

(H) Aircraft while used for showing compliance with regulations, crew training, exhibition, air racing, or market surveys; and

(I) Aircraft equipped to carry not more than one person.

(3) The Administrator shall issue regulations which permit, subject to such limitations and conditions as he prescribes in such regulations, the operation of any aircraft equipped with an emergency locator transmitter during any period for which such transmitter has been removed from such aircraft for inspection, repair, modification, or replacement.

AVIATION FUEL STANDARDS

(e) The Administrator shall prescribe, and from time to time revise, regulations (1) establishing standards governing the composition or the chemical or physical properties of any aircraft fuel or fuel additive for the purpose of controlling or eliminating aircraft emissions which the Administrator of the Environmental Protection Agency (pursuant to section 231 of the Clean Air Act) determines endanger the public health or welfare, and (2) providing for the implementation and enforcement of such standards.

(f) COLLISION AVOIDANCE SYSTEMS.—

(1) DEVELOPMENT AND CERTIFICATION.—

(A) STANDARDS.—The Administrator shall complete development of the collision avoidance system known as TCAS-II so that such system will be operable under visual and instrument flight rules and will be upgradable to the performance standards applicable to the collision avoidance system known as TCAS-III.

(B) SCHEDULE.—The Administrator shall develop and implement a schedule for development and certification of the collision avoidance system known as TCAS-II which will result in completion of such certification not later than 18 months after the date of the enactment of this subsection.

(C) MONTHLY REPORTS.—The Administrator shall transmit to Congress monthly reports on the progress being made in development and certification of the collision avoidance system known as TCAS-II.

(2) INSTALLATION.—The Administrator shall require by regulation that, not later than 30 months after the date of certification of the collision avoidance system known as TCAS-II, such system be installed and operated on each civil aircraft which has a maximum passenger capacity of more than 30 seats and which is used to provide air transportation of passengers, including intrastate air transportation of passengers.

(3) **TRANSPONDERS.**—Not later than 6 months after the date of the enactment of this subsection, the Administrator shall promulgate a final rule requiring the installation and use of operating transponders with automatic altitude reporting capability for aircraft operating in designated terminal airspace where radar service is provided for separation of aircraft. For such terminal airspace, other than Terminal Control Areas and Airport Radar Service Areas, the Administrator may provide for access to such airspace by nonequipped aircraft if the Administrator determines that such access will not interfere with the normal traffic flow. Such final rule shall require the installation and use of such transponders not later than 36 months after the date of the enactment of this subsection.¹ [49 U.S.C. App. 1421]

AIRMAN CERTIFICATES

POWER TO ISSUE CERTIFICATE

SEC. 602. (a) The Administrator is empowered to issue airman certificates specifying the capacity in which the holders thereof are authorized to serve as airmen in connection with aircraft.

ISSUANCE OF CERTIFICATE

(b)(1) Any person may file with the Administrator an application for an airman certificate. If the Administrator finds, after investigation, that such person possesses proper qualifications for, and is physically able to perform duties pertaining to, the position for which the airman certificate is sought, he shall issue such certificate, containing such terms, conditions, and limitations as to duration thereof, periodic or special examinations, tests of physical fitness, and other matters as the Administrator may determine to be necessary to assure safety in air commerce. Except in the case of persons whose certificates are, at the time of denial, under order of suspension or whose certificates have been revoked within one year of the date of such denial, any person whose application for the issuance or renewal of an airman certificate is denied may file with the Board a petition for review of the Administrator's action. The Board shall thereupon assign such petition for hearing at a place convenient to the applicant's place of residence or employment. In the conduct of such hearing and in determining whether the airman meets the pertinent rules, regulations, or standards, the Board shall not be bound by findings of fact of the Administrator. At the conclusion of such hearing, the Board shall issue its decision as to whether the airman meets the pertinent rules, regulations, and standards and the Administrator shall be bound by such decision: *Provided*, That the Administrator may, in his discretion, pro-

¹ Section 326 of the Department of Transportation and Related Agencies Appropriations, 1988 (Pub. L. 100-202, 101 Stat. 1329-382) reads as follows:

Sec. 326. Within 12 months of enactment, the Federal Aviation Administration shall adopt regulations requiring the installation and carriage of operating automatic altitude reporting equipment for all aircraft operating in terminal airspace where air traffic control radar service is provided, and in all controlled airspace above a minimum altitude to be determined by the Federal Aviation Administration. This regulation shall be effective on the earliest feasible date.

hibit or restrict the issuance of airman certificates to aliens, or may make such issuance dependent on the terms of reciprocal agreements entered into with foreign governments.

(2) LIMITATION ON REISSUANCE OF REVOKED CERTIFICATES.—

(A) GENERAL RULE.—Except as provided in subparagraphs (B) and (C), the Administrator shall not issue an airman certificate to any person whose airman certificate has been revoked under section 609(c).

(B) SPECIAL RULE FOR LAW ENFORCEMENT PURPOSES.—The Administrator may issue an airman certificate to any person whose airman certificate has been revoked under section 609(c) if the Administrator determines that issuance of such certificate will facilitate law enforcement efforts.

(C) In any case in which the Administrator has revoked an airman certificate of a person under section 609(c) (1) or (2) as a result of any activity and—

(i) such person is subsequently acquitted of all charges contained in an indictment or information which relate to controlled substances and which arise from such activity; or

(ii) in the case of a revocation under section 609(c)(1), the judgment of conviction on which the revocation is based is reversed on appeal;

the Administrator shall issue an airman certificate to such person if such person is otherwise qualified to serve as an airman under this section.

FORM AND RECORDING OF CERTIFICATE

(c) Each certificate shall be numbered and recorded by the Administrator; shall state the name and address of, and contain a description of, the person to whom the certificate is issued; and shall be entitled with the designation of the class covered thereby. Certificates issued to all pilots serving in scheduled air transportation shall be designated "airline transport pilot" of the proper class.

(d) MODIFICATION OF SYSTEM.—The Administrator is authorized and directed to make such modifications in the system established under this title for issuance of airman's certificates to pilots as may be necessary to make such system more effective in serving the needs of pilots and officials responsible for enforcement of laws relating to the regulation of controlled substances (as defined in section 102 of the Controlled Substances Act). Such modifications shall assure positive and verifiable identification of each person applying for or holding such a certificate and shall address, at a minimum, each of the following deficiencies in and abuses of the existing system:

(1) The use of fictitious names and addresses by applicants for such certificates.

(2) The use of stolen or fraudulent identification in applying for such certificates.

(3) The use by a person applying for such a certificate of a post office box or "mail drop" as a return address for the purpose of evading identification of such person's address.

(4) The use of counterfeit and stolen airman's certificates by pilots.

(5) The absence of information concerning physical characteristics of holders of such certificates. [49 U.S.C. App. 1422]

AIRCRAFT CERTIFICATES

TYPE CERTIFICATES

SEC. 603. (a)(1) The Administrator is empowered to issue type certificates for aircraft, aircraft engines, and propellers; to specify in regulations the appliances for which the issuance of type certificates is reasonably required in the interest of safety; and to issue such certificates for appliances so specified.

(2) Any interested person may file with the Administrator an application for a type certificate for an aircraft, aircraft engine, propeller, or appliance specified in regulations under paragraph (1) of this subsection. Upon receipt of an application, the Administrator shall make an investigation thereof and may hold hearings thereon. The Administrator shall make, or require the applicant to make, such tests during manufacture and upon completion as the Administrator deems reasonably necessary in the interest of safety, including flight tests and tests of raw materials or any part or appurtenance of such aircraft, aircraft engine, propeller, or appliance is of proper design, material, specification, construction, and performance for safe operation, and meets the minimum standards, rules, and regulations prescribed by the Administrator, he shall issue a type certificate therefor. The Administrator may prescribe in any such certificate the duration thereof and such other terms, conditions, and limitations as are required in the interest of safety. The Administrator may record upon any certificate issued for aircraft, aircraft engines, or propellers, a numerical determination of all of the essential factors relative to the performance of the aircraft, aircraft engine, or propeller for which the certificate is issued.

PRODUCTION CERTIFICATE

(b) Upon application, and if it satisfactorily appears to the Administrator that duplicates of any aircraft, aircraft engine, propeller, or appliance for which a type certificate has been issued will conform to such certificate, the Administrator shall issue a production certificate authorizing the production of duplicates of such aircraft, aircraft engines, propellers, or appliances. The Administrator shall make such inspection and may require such tests of any aircraft, aircraft engine, propeller, or appliance manufactured under a production certificate as may be necessary to assure manufacture of each unit in conformity with the type certificate or any amendment or modification thereof. The Administrator may prescribe in any such production certificate the duration thereof and such other terms, conditions, and limitations as are required in the interest of safety.

AIRWORTHINESS CERTIFICATE

(c) The registered owner of any aircraft may file with the Administrator an application for an airworthiness certificate for such aircraft. If the Administrator finds that the aircraft conforms to the type certificate therefor, and, after inspection, that the aircraft is in condition for safe operation, he shall issue an airworthiness certificate. The Administrator may prescribe in such certificate the duration of such certificate, the type of service for which the aircraft may be used, and such other terms, conditions, and limitations as are required in the interest of safety. Each such certificate shall be registered by the Administrator and shall set forth such information as the Administrator may deem advisable. The certificate number, or such other individual designation as may be required by the Administrator, shall be displayed upon each aircraft in accordance with regulations prescribed by the Administrator. [49 U.S.C. App. 1423]

AIR CARRIER OPERATING CERTIFICATES

POWER TO ISSUE

SEC. 604. (a) The Administrator is empowered to issue air carrier operating certificates and to establish minimum safety standards for the operation of the air carrier to whom any such certificate is issued.

ISSUANCE

(b) Any person desiring to operate as an air carrier may file with the Administrator an application for an air carrier operating certificate. If the Administrator finds, after investigation, that such person is properly and adequately equipped and able to conduct a safe operation in accordance with the requirements of this act and the rules, regulations, and standards prescribed thereunder, he shall issue an air carrier operating certificate to such person. Each air carrier operating certificate shall prescribe such terms, conditions, and limitations as are reasonably necessary to assure safety in air transportation, and shall specify the points to and from which, and the Federal airways over which, such person is authorized to operate as an air carrier under an air carrier operating certificate. [49 U.S.C. App. 1424]

MAINTENANCE OF EQUIPMENT IN AIR TRANSPORTATION

DUTY OF CARRIERS AND AIRMEN

SEC. 605. (a) It shall be the duty of each air carrier to make, or cause to be made, such inspection, maintenance, overhaul, and repair of all equipment used in air transportation as may be required by this Act, or the orders, rules, and regulations of the Administrator issued thereunder. And it shall be the duty of every person engaged in operating, inspecting, maintaining, or overhauling equipment to observe and comply with the requirements of this Act relating thereto, and the orders, rules, and regulations issued thereunder.

INSPECTION

(b) The Administrator shall employ inspectors who shall be charged with the duty (1) of making such inspections of aircraft, aircraft engines, propellers, and appliances designed for use in air transportation, during manufacture, and while used by an air carrier in air transportation, as may be necessary to enable the Administrator to determine that such aircraft, aircraft engines, propellers, and appliances are in safe condition and are properly maintained for operation in air transportation; and (2) of advising and cooperating with each air carrier in the inspection and maintenance thereof by the air carrier. Whenever any inspector shall, in the performance of his duty, find that any aircraft, aircraft engine, propeller, or appliance, used or intended to be used by any air carrier in air transportation, is not in condition for safe operation, he shall so notify the carrier in such form and manner as the Administrator may prescribe; and, for a period of five days thereafter, such aircraft, aircraft engine, propeller, or appliance shall not be used in air transportation, or in such manner as to endanger air transportation, unless found by the Administrator or his inspector to be in condition for safe operation.

(c) **MODIFICATION OF SYSTEM.**—The Administrator is authorized and directed to make such modifications in the system established under this title for processing forms for major repairs or alterations of fuel tanks and fuel systems of aircraft as may be necessary to make such system more effective in serving the needs of users of such system, including officials responsible for enforcement of laws relating to the regulation of controlled substances (as defined in section 102 of the Controlled Substances Act). Such modifications shall address, at a minimum, each of the following deficiencies in and abuses of the existing system:

(1) The lack of a special identification feature to permit such forms to be easily distinguished from other major repair and alteration forms.

(2) The excessive amount of time required for receiving such forms at the Airmen and Aircraft Registry of the Federal Aviation Administration.

(3) The backlog of such forms which are awaiting processing at the Airmen and Aircraft Registry.

(4) The lack of ready access by law enforcement officials to information contained on such forms. [49 U.S.C. App. 1425]

AIR NAVIGATION FACILITY RATING

SEC. 606. The Administrator is empowered to inspect, classify, and rate any air navigation facility available for the use of civil aircraft, as to its suitability for such use. The Administrator is empowered to issue a certificate for any such air navigation facility. [49 U.S.C. App. 1426]

AIR AGENCY RATING

SEC. 607. The Administrator is empowered to provide for the examination and rating of (1) civilian schools giving instruction in flying or in the repair, alteration, maintenance, and overhaul of

aircraft, aircraft engines, propellers, and appliances, as to the adequacy of the course of instruction, the suitability and airworthiness of the equipment, and the competency of the instructors; (2) repair stations or shops for the repair, alteration, maintenance, and overhaul of aircraft, aircraft engines, propellers, or appliances, as to the adequacy and suitability of the equipment, facilities, and materials for and methods of, repair, alteration, maintenance, and overhaul of aircraft, aircraft engines, propellers, and appliances, and the competency of those engaged in the work or giving any instruction therein; and (3) such other air agencies as may, in his opinion, be necessary in the interest of the public. The Administrator is empowered to issue certificates for such schools, repair stations, and other agencies. [49 U.S.C. App. 1427]

FORM OF APPLICATIONS

SEC. 608. Applications for certificates under this title shall be in such form, contain such information, and be filed and served in such manner as the Administrator may prescribe, and shall be under oath whenever the Administrator so requires. [49 U.S.C. App. 1428]

AMENDMENT, SUSPENSION, AND REVOCATION OF CERTIFICATES

PROCEDURE

SEC. 609. (a) The Administrator may, from time to time, reinspect any civil aircraft, aircraft, engine, propeller, appliance, air navigation facility, or air agency, or may reexamine any civil airman. If, as a result of any such reinspection or reexamination, or if, as a result of any other investigation made by the Administrator, he determines that safety in air commerce or air transportation and the public interest requires, the Administrator may issue an order amending, modifying, suspending, or revoking, in whole or in part, any type certificate, production certificate, airworthiness certificate, airman certificate, air carrier operating certificate, air navigation facility certificate (including airport operating certificate), or air agency certificate. Prior to amending, modifying, suspending, or revoking any of the foregoing certificates, the Administrator shall advise the holder thereof as to any charges or other reasons relied upon by the Administrator for his proposed action and, except in cases of emergency, shall provide the holder of such a certificate an opportunity to answer any charges and be heard as to why such certificate should not be amended, modified, suspended, or revoked. Any person whose certificate is affected by such an order of the Administrator under this section may appeal the Administrator's order to the Board and the Board may, after notice and hearing, amend, modify, or reverse the Administrator's order if it finds that safety in air commerce or air transportation and the public interest do not require affirmation of the Administrator's order. In the conduct of its hearings the Board shall not be bound by findings of fact of the Administrator. The filing of an appeal with the Board shall stay the effectiveness of the Administrator's order unless the Administrator advises the Board that an emergency exists and safety in air commerce or air transportation requires the immediate effec-

tiveness of his order, in which event the order shall remain effective and the Board shall finally dispose of the appeal within sixty days after being so advised by the Administrator. The person substantially affected by the Board's order may obtain judicial review of said order under the provisions of section 1006, and the Administrator shall be made a party to such proceedings.

VIOLATION OF CERTAIN LAWS

(b) The Administrator, in his discretion, may issue an order amending, modifying, suspending, or revoking any airman certificate upon conviction of the holder of such certificate of any violation of subsection (a) of section 13 of the Fish and Wildlife Act of 1956, regarding the use or operation of an aircraft.

TRANSPORTATION, DISTRIBUTION, AND OTHER ACTIVITIES RELATED TO CONTROLLED SUBSTANCES

(c)(1) The Administrator shall issue an order revoking the airman certificates of any person upon conviction of such person of a crime punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than a law relating to simple possession of a controlled substance), if the Administrator determines that (A) an aircraft was used in the commission of the offense or to facilitate the commission of the offense, and (B) such person served as an airman, or was on board such aircraft, in connection with the commission of the offense or the facilitation of the commission of the offense. The Administrator shall have no authority under this paragraph to review the issue of whether an airman violated a State or Federal law relating to a controlled substance.

(2) The Administrator shall issue an order revoking the airman certificates of any person if the Administrator determines that (A) such person knowingly engaged in an activity that is punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than any law relating to simple possession of a controlled substance), (B) an aircraft was used to carry out such activity or to facilitate such activity, and (C) such person served as an airman, or was on board such aircraft, in connection with such activity or the facilitation of such activity. The Administrator shall not revoke, and the National Transportation Safety Board on appeal under paragraph (3) shall not affirm the revocation of, a certificate under this paragraph on the basis of any activity if the holder of the certificate is acquitted of all charges contained in an indictment or information which relate to controlled substances and which arise from such activity.

(3) Prior to revoking an airman certificate under this subsection, the Administrator shall advise the holder thereof of the charges or any reasons relied upon by the Administrator for his proposed action and shall provide the holder of such certificate an opportunity to answer any charges and be heard as to why such certificate should not be revoked. Any person whose certificate is revoked by the Administrator under this subsection may appeal the Administrator's order to the National Transportation Safety Board and the Board shall, after notice and a hearing on the record, affirm or re-

verse the Administrator's order. In the conduct of its hearings, the National Transportation Safety Board shall not be bound by findings of fact of the Administrator. The filing of an appeal with the National Transportation Safety Board shall stay the effectiveness of the Administrator's order unless the Administrator advises the Board that safety in air commerce or air transportation requires the immediate effectiveness of his order, in which event the order shall remain effective and the Board shall finally dispose of the appeal within sixty days after being so advised by the Administrator. The person substantially affected by the National Transportation Safety Board's order may obtain judicial review of such order under the provisions of section 1006, and the Administrator shall be made a party to such proceedings.

(4) For purposes of this subsection, the term "controlled substance" has the meaning given such term by section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

(5) **WAIVER OF REVOCATION REQUIREMENT.**—Upon request of a Federal or State law enforcement official, the Administrator may waive the requirements of paragraphs (1) and (2) that an airman certificate of any person be revoked if the Administrator determines that such waiver will facilitate law enforcement efforts. [49 U.S.C. App. 1429]

PROHIBITIONS

VIOLATIONS OF TITLE

SEC. 610. (a) It shall be unlawful—

(1) For any person to operate in air commerce any civil aircraft for which there is not currently in effect an airworthiness certificate, or in violation of the terms of any such certificate;

(2) For any person to serve in any capacity as an airman in connection with any civil aircraft, aircraft engine, propeller or appliance used or intended for use, in air commerce without an airman certificate authorizing him to serve in such capacity, or in violation of any term, condition, or limitation thereof, or in violation of any order, rule, or regulation issued under this title;

(3) For any person to employ for service in connection with any civil aircraft used in air commerce an airman who does not have an airman certificate authorizing him to serve in the capacity for which he is employed;

(4) For any person to operate as an air carrier without an air carrier operating certificate, or in violation of the terms of any such certificate;

(5) For any person to operate aircraft in air commerce in violation of any other rule, regulation, or certificate of the Administrator under this title; and

(6) For any person to operate a seaplane or other aircraft of United States registry upon the high seas in contravention of the regulations proclaimed by the President pursuant to section 1 of the Act entitled "An Act to authorize the President to proclaim regulations for preventing collisions at sea", approved October 11, 1951 (Public Law 172, Eighty-second Congress, 65 Stat. 406);

(7) For any person holding an air agency or production certificate, to violate any term, condition, or limitation thereof, or to violate any order, rule, or regulation under this title relating to the holder of such certificate;

(8) For any person to operate an airport without an airport operating certificate required by the Administrator pursuant to section 612, or in violation of the terms of any such certificate; and

(9) For any person to manufacture, deliver, sell, or offer for sale, any aviation fuel or fuel additive in violation of any regulation prescribed under section 601(e).

EXEMPTION OF FOREIGN AIRCRAFT AND AIRMEN

(b) Foreign aircraft and airmen serving in connection therewith may, except with respect to the observance by such airmen of the air traffic rules, be exempted from the provisions of subsection (a) of this section, to the extent, and upon such terms and conditions, as may be prescribed by the Administrator as being in the interest of the public. [49 U.S.C. App. 1430]

CONTROL AND ABATEMENT OF AIRCRAFT NOISE AND SONIC BOOM

SEC. 611. (a) For purposes of this section:

(1) The term "FAA" means Administrator of the Federal Aviation Administration.

(2) The term "EPA" means the Administrator of the Environmental Protection Agency.

(b)(1) In order to afford present and future relief and protection to the public health and welfare from aircraft noise and sonic boom, the FAA, after consultation with the Secretary of Transportation and with EPA, shall prescribe and amend standards for the measurement of aircraft noise and sonic boom and shall prescribe and amend such regulations as the FAA may find necessary to provide for the control and abatement of aircraft noise and sonic boom, including the application of such standards and regulations in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by this title. No exemption with respect to any standard or regulation under this section may be granted under any provision of this Act unless the FAA shall have consulted with EPA before such exemption is granted, except that if the FAA determines that safety in air commerce or air transportation requires that such an exemption be granted before EPA can be consulted, the FAA shall consult with EPA as soon as practicable after the exemption is granted.

(2) The FAA shall not issue an original type certificate under section 603(a) of this Act for any aircraft for which substantial noise abatement can be achieved by prescribing standards and regulations in accordance with this section, unless he shall have prescribed standards and regulations in accordance with this section which apply to such aircraft and which protect the public from aircraft noise and sonic boom, consistent with the considerations listed in subsection (d).

(c)(1) Not earlier than the date of submission of the report required by section 7(a) of the Noise Control Act of 1972, EPA shall submit to the FAA proposed regulations to provide such control

and abatement of aircraft noise and sonic boom (including control and abatement through the exercise of any of the FAA's regulatory authority over air commerce or transportation or over aircraft or airport operations) as EPA determines is necessary to protect the public health and welfare. The FAA shall consider such proposed regulations submitted by EPA under this paragraph and shall, within thirty days of the date of its submission to the FAA, publish the proposed regulations in a notice of proposed rulemaking. Within sixty days after such publication, the FAA shall commence a hearing at which interested persons shall be afforded an opportunity for oral (as well as written) presentations of data, views, and arguments. Within ninety days after the conclusion of such hearing and after consultation with EPA, the FAA shall—

(A) in accordance with subsection (b), prescribe regulations (i) substantially as they were submitted by EPA, or (ii) which are a modification of the proposed regulations submitted by EPA, or

(B) publish in the Federal Register a notice that it is not prescribing any regulation in response to EPA's submission of proposed regulations, together with a detailed explanation providing reasons for the decision not to prescribe such regulations and a detailed analysis of and response to all documentation or other information submitted by the Environmental Protection Agency with such proposed regulations.

(2) If EPA has reason to believe that the FAA's action with respect to a regulation proposed by EPA under paragraph (1)(A)(ii) or (1)(B) of this subsection does not protect the public health and welfare from aircraft noise or sonic boom, consistent with the considerations listed in subsection (d) of this section, EPA shall consult with the FAA and may request the FAA to review, and report to EPA on, the advisability of prescribing the regulation originally proposed by EPA. Any such request shall be published in the Federal Register and shall include a detailed statement of the information on which it is based. The FAA shall complete the review requested and shall report to EPA within such time as EPA specifies in the request, but such time specified may not be less than ninety days from the date the request was made. The FAA's report shall be accompanied by a detailed statement of the FAA's findings and the reasons for the FAA's conclusions; shall identify any statement filed pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 with respect to such action of the FAA under paragraph (1) of this subsection; and shall specify whether (and where) such statements are available for public inspection. The FAA's report shall be published in the Federal Register, except in a case in which EPA's request proposed specific action to be taken by the FAA, and the FAA's report indicates such action will be taken.

(3) If, in the case of a matter described in paragraph (2) of this section with respect to which no statement is required to be filed under such section 102(2)(C), the report of the FAA indicates that the proposed regulation originally submitted by EPA should not be made, then EPA may request the FAA to file a supplemental report, which shall be published in the Federal Register within

such a period as EPA may specify (but such time specified shall not be less than ninety days from the date the request was made), and which shall contain a comparison of (A) the environmental effects (including those which cannot be avoided) of the action actually taken by the FAA in response to EPA's proposed regulations, and (B) EPA's proposed regulations.

(d) In prescribing and amending standards and regulations under this section, the FAA shall—

(1) consider relevant available data relating to aircraft noise and sonic boom, including the results of research, development, testing, and evaluation activities conducted pursuant to this Act and the Department of Transportation Act;

(2) consult with such Federal, State, and interstate agencies as he deems appropriate;

(3) consider whether any proposed standard or regulation is consistent with the highest degree of safety in air commerce or air transportation in the public interest;

(4) consider whether any proposed standard or regulation is economically reasonable, technologically practicable, and appropriate for the particular type of aircraft, aircraft engine, appliance, or certificate to which it will apply; and

(5) consider the extent to which such standard or regulation will contribute to carrying out the purposes of this section.

(e) In any action to amend, modify, suspend, or revoke a certificate in which violation of aircraft noise or sonic boom standards or regulations is at issue, the certificate holder shall have the same notice and appeal rights as are contained in section 609, and in any appeal to the National Transportation Safety Board, the Board may amend, modify, or reverse the order of the FAA if it finds that control or abatement of aircraft noise or sonic boom and the public health and welfare do not require the affirmation of such order, or that such order is not consistent with safety in air commerce or air transportation. [49 U.S.C. App. 1431]

AIRPORT OPERATING CERTIFICATES

POWER TO ISSUE

SEC. 612. (a) The Administrator¹ is empowered to issue airport operating certificates to, and establish minimum safety standards for the operation of, airports that serve any scheduled or unscheduled passenger operation of air carrier aircraft designed for more than 30 passenger seats.

ISSUANCE

(b) Any person desiring to operate an airport which is described in subsection (a) and which is required by the Administrator, by rule, to be certificated may file with the Administrator an application for an airport operating certificate. If the Administrator finds, after investigation, that such person is properly and adequately

¹ This section was enacted after the Department of Transportation Act. References to "Administrator" should be read as Administrator of the Federal Aviation Administration. See Introductory Note to this compilation.

equipped and able to conduct a safe operation in accordance with the requirements of this Act and the rules, regulations, and standards prescribed thereunder, he shall issue an airport operating certificate to such person. Each airport operating certificate shall prescribe such terms, conditions, and limitations as are reasonably necessary to assure safety in air transportation. Unless the Administrator determines that it would be contrary to the public interest, such terms, conditions, and limitations shall include but not be limited to terms, conditions, and limitations relating to (1) the operation and maintenance of adequate safety equipment, including firefighting and rescue equipment capable of rapid access to any portion of the airport used for the landing, takeoff, or surface maneuvering of aircraft and (2) such grooving or other friction treatment for primary and secondary runways as the Secretary determines to be necessary.

EXEMPTION

(c) The Administrator may exempt any operator of an airport described in subsection (a)(1) enplaning annually less than one-quarter of 1 percent of the total number of passengers enplaned at all airports described in subsection (a)(1) from the requirements imposed by subsection (b) of this section relating to firefighting and rescue equipment if he finds that such requirements are, or would be, unreasonably costly, burdensome, or impractical. [49 U.S.C. App. 1432]

TITLE VII—AIRCRAFT ACCIDENT INVESTIGATION

ACCIDENTS INVOLVING CIVIL AIRCRAFT

GENERAL DUTIES

SEC. 701. (a) It shall be the duty of the Board to—

- (1) Make rules and regulations governing notification and report of accidents involving civil aircraft;
- (2) Investigate such accidents and report the facts, conditions, and circumstances relating to each accident and the probable cause thereof;
- (3) Make such recommendations to the Administrator as, in its opinion, will tend to prevent similar accidents in the future;
- (4) Make such reports public in such form and manner as may be deemed by it to be in the public interest; and
- (5) Ascertain what will best tend to reduce or eliminate the possibility of, or recurrence of, accidents by conducting special studies and investigations on matters pertaining to safety in air navigation and the prevention of accidents.

TEMPORARY PERSONNEL

(b) The Board may, without regard to the civil-service laws, engage, for temporary service in the investigation of any accident involving aircraft, persons other than officers or employees of the United States and may fix their compensation without regard to

the Classification Act of 1949, as amended;¹ and may, with consent of the head of the executive department or independent establishment under whose jurisdiction the officer or employee is serving, secure for such service any officer or employee of the United States.

CONDUCT OF INVESTIGATIONS

(c) In conducting any hearing or investigation, any member of the Board or any officer or employee of the Board or any person engaged or secured under subsection (b) shall have the same powers as the Board has with respect to hearings or investigations conducted by it.

In carrying out its duties under this title, the Board is authorized to examine and test to the extent necessary any civil aircraft, aircraft engine, propeller, appliance, or property aboard an aircraft involved in an accident in air commerce. In the case of any fatal accident, the Board is authorized to examine the remains of any deceased person aboard the aircraft at the time of the accident, who dies as a result of the accident, and to conduct autopsies or such other tests thereof as may be necessary to the investigation of the accident: *Provided*, That to the extent consistent with the needs of the accident investigation, provisions of local law protecting religious beliefs with respect to autopsies shall be observed.

AIRCRAFT

(d) Any civil aircraft, aircraft engine, propeller, appliance, or property aboard an aircraft involved in an accident in air commerce, shall be preserved in accordance with, and shall not be moved except in accordance with, regulations prescribed by the Board.

USE OF RECORDS AND REPORTS AS EVIDENCE

(e) No part of any report or reports of the Board relating to any accident or the investigation thereof, shall be admitted as evidence or used in any suit or action for damages growing out of any matter mentioned in such report or reports.

USE OF AGENCY IN ACCIDENT INVESTIGATIONS

(f) Upon the request of the Board, the Administrator is authorized to make investigations with regard to aircraft accidents and to report to the Board the facts, conditions, and circumstances thereof, and the Board is authorized to utilize such reports in making its determinations of probable cause under this title.

PARTICIPATION BY AGENCY

(g) In order to assure the proper discharge by the Administrator of his duties and responsibilities, the Board shall provide for the appropriate participation of the Administrator and his representa-

¹ Now contained in chapter 51 and subchapter III of chapter 53 of title 5, United States Code. Public Law 89-554 § 7(b), 80 Stat. 631.

tives in any investigations conducted by the Board under this title: *Provided*, That the Administrator or his representatives shall not participate in the determination of probable cause by the Board under this title. [49 U.S.C. App. 1441]

ACCIDENTS INVOLVING MILITARY AIRCRAFT

SEC. 702. (a) In the case of accidents involving both civil and military aircraft, the Board shall provide for participation in the investigation by appropriate military authorities.

(b) In the case of accidents involving solely military aircraft and in which a function of the Administrator is or may be involved, the military authorities shall provide for participation in the investigation by the Administrator.

(c) With respect to other accidents involving solely military aircraft, the military authorities shall provide the Administrator and the Board with any information with respect thereto which, in the judgment of the military authorities, would contribute to the promotion of air safety. [49 U.S.C. App. 1442]

SPECIAL BOARDS OF INQUIRY

SEC. 703. (a) In any accident which involves substantial questions of public safety in air transportation the Board may establish a Special Board of Inquiry consisting of three members; one member of the Civil Aeronautics Board who shall act as Chairman of the Special Board of Inquiry; and two members representing the public who shall be appointed by the President upon notification of the creation of such Special Board of Inquiry by the Civil Aeronautics Board.

(b) Such public members of the Special Board of Inquiry shall be duly qualified by training and experience to participate in such inquiry and shall have no pecuniary interest in any aviation enterprise involved in the accident to be investigated.

(c) The Special Board of Inquiry when convened to investigate an accident certified to it by the Civil Aeronautics Board shall have all authority of the Civil Aeronautics Board as described in this title. [49 U.S.C. App. 1443]

TITLE VIII—OTHER ADMINISTRATIVE AGENCIES

THE PRESIDENT OF THE UNITED STATES

SEC. 801. (a) The issuance, denial, transfer, amendment, cancellation, suspension, or revocation of, and the terms, conditions, and limitations contained in, any certificate authorizing an air carrier to engage in foreign air transportation, or any permit issuable to any foreign air carrier under section 402 of this Act, shall be presented to the President for review. The President shall have the right to disapprove any such Board action concerning such certificates or permits solely upon the basis of foreign relations or national defense considerations which are within the President's jurisdiction, but not upon the basis of economic or carrier selection consid-

erations. Any such disapproval shall be issued in a public document, setting forth the reasons for the disapproval to the extent national security permits, within sixty days after submission of the Board's action to the President. Any such Board action so disapproved shall be null and void. Any such Board action not disapproved within the foregoing time limits shall take effect as action of the Board, not the President, and as such shall be subject to judicial review as provided in section 1006 of this Act.

(b) Any order of the Board pursuant to section 1002(j) of this Act suspending, rejecting, or canceling a rate, fare, or charge for foreign air transportation, and any order rescinding the effectiveness of any such order, shall be submitted to the President before publication thereof. The President may disapprove any such order when he finds that disapproval is required for reasons of the national defense or the foreign policy of the United States not later than ten days following submission by the Board of any such order to the President. [49 U.S.C. App. 1461]

THE DEPARTMENT OF STATE

SEC. 802. The Secretary of State shall advise the Administrator, the Board, and the Secretary of Commerce, and consult with the Administrator, Board, or Secretary, as appropriate, concerning the negotiations of any agreement with foreign governments for the establishment or development of air navigation, including air routes and services. [49 U.S.C. App. 1462]

WEATHER BUREAU

SEC. 803. In order to promote safety and efficiency in air navigation to the highest possible degree, the Chief of the Weather Bureau,¹ under the direction of the Secretary of Commerce, shall, in addition to any other functions or duties pertaining to weather information for other purposes, (1) make such observations, measurements, investigations, and studies of atmospheric phenomena, and establish such meteorological offices and stations, as are necessary or best suited for ascertaining, in advance, information concerning probable weather conditions; (2) furnish such reports, forecasts, warnings, and advices to the Administrator, and to such persons engaged in civil aeronautics as may be designated by the Administrator, and to such other persons as the Chief of the Weather Bureau may determine, and such reports shall be made in such manner and with such frequency as will best result in safety in and in facilitating air navigation; (3) cooperate with persons engaged in air commerce, or employees thereof, in meteorological service, establish and maintain reciprocal arrangements under which this provision is to be carried out and collect and disseminate weather reports available from aircraft in flight; (4) establish and coordinate the international exchanges of meteorological information required for the safety and efficiency of air navigation; (5) participate in the development of an international basic meteorological reporting network, including the establishment, operation,

¹ The Office of Chief of the Weather Bureau was abolished and its functions transferred to the Secretary of Commerce by Reorg. Plan No. 2 of 1965, 79 Stat. 1318.

and maintenance of reporting stations on the high seas, in polar regions, and in foreign countries in cooperation with other governmental agencies of the United States and the meteorological services of foreign countries and with persons engaged in air commerce; (6) coordinate meteorological requirements in the United States in order to maintain standard observations, promote efficient use of facilities and avoid duplication of services unless such duplication tends to promote the safety and efficiency of air navigation; and (7) promote and develop meteorological science and foster and support research projects in meteorology through the utilization of private and governmental research facilities and provide for the publication of the results of such research projects unless such publication would be contrary to the public interest. [49 U.S.C. App. 1463]

TITLE IX—PENALTIES

CIVIL PENALTIES

SAFETY, ECONOMIC, AND POSTAL OFFENSES

SEC. 901. (a)(1) Any person who violates (A) any provision of title III, IV, V, VI, VII, or XII, or of section 1101 or ¹ 1114 or 1115(e)(2)(B), of this Act, or any rule, regulation, or order issued thereunder, or under section 1002(i), or any term, condition, or limitation of any permit or certificate issued under title IV, or (B) any rule or regulation issued by the Postmaster General under this Act, shall be subject to a civil penalty of not to exceed \$1,000 for each such violation, except that a person who operates aircraft for the carriage of persons or property for compensation or hire (other than an airman serving in the capacity of an airman) shall be subject to a civil penalty not to exceed \$10,000 for each violation of title III, VI, or XII of this Act, or any rule, regulation, or order issued thereunder, occurring after the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987, and except that the amount of such civil penalty shall not exceed \$10,000 for each such violation which relates to the transportation of hazardous materials and for each such violation which relates to registration or recordation of an aircraft under title V. If such violation is a continuing one, each day of such violation, or each flight with respect to which such violation is committed, if applicable, shall constitute a separate offense. The amount of any such civil penalty which relates to the transportation of hazardous materials shall be assessed by the Secretary or his delegate, upon written notice upon a finding of violation by the Secretary, after notice and an opportunity for a hearing. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay,

¹ Note: Section 204(a) of Public Law 100-223, 101 Stat. 1519, amended section 901(a)(1)(A). The amendment as written cannot be executed.

effect on ability to continue to do business, and such other matters as justice may require. The amount of any such civil penalty for any violation of any provision of title IV of this Act, or any rule, regulation, or order issued thereunder, or under section 1002(i) of this Act, or any term, condition, or limitation of any permit or certificate issued under title IV shall be assessed by the Board only after notice and an opportunity for a hearing and after written notice upon a finding of violation by the Board. Judicial review of any order of the Board assessing such a penalty may be obtained only pursuant to section 1006 of this Act. This subsection shall not apply to members of the Armed Forces of the United States, or those civilian employees of the Department of Defense who are subject to the provisions of the Uniform Code of Military Justice, while engaged in the performance of their official duties; and the appropriate military authorities shall be responsible for taking any necessary disciplinary action with respect thereto and for making to the Administrator or Board, as appropriate, a timely report of any such action taken.

(2) Any civil penalty may be compromised by the Secretary of Transportation in the case of penalties provided for in subsections (c) and (d) of this section or violations of title III, V, VI, or XII, or of section 1101, 1114, or 1115(e)(2)(B), of this Act, or any rule, regulation, or order issued thereunder or by the National Transportation Safety Board in the case of violations of title VII of this Act, or any rule, regulation, or order issued thereunder, or by the Postmaster General in the case of regulations issued by him. The amount of such penalty when finally determined or fixed by order of the Board, or the amount agreed upon in compromise, may be deducted from any sums which the United States owes to the person charged.

(3) ADMINISTRATIVE ASSESSMENT OF CERTAIN REGISTRATION AND RECORDATION VIOLATIONS.—

(A) GENERAL AUTHORITY.—The Administrator, or his delegate, may assess a civil penalty for a violation of title V, or a rule, regulation, or order issued thereunder, which relates to registration or recordation of an aircraft upon written notice and finding of violation by the Administrator.

(B) NO REEXAMINATION OF LIABILITY OR AMOUNT.—In the case of a civil penalty assessed by the Administrator under this paragraph, the issue of liability or amount of civil penalty shall not be reexamined in any subsequent suit for collection of such civil penalty.

(C) CONTINUING JURISDICTION OF DISTRICT COURTS.—Notwithstanding subparagraph (A), the United States district courts shall have exclusive jurisdiction of any civil penalty action initiated by the Administrator—

(i) which involves an amount in controversy in excess of \$50,000;

(ii) which is an in rem action or in which an in rem action based on the same violation has been brought;

(iii) regarding which an aircraft subject to lien has been seized by the United States; and

(iv) in which a suit for injunctive relief based on the violation giving rise to the civil penalty has also been brought.

(D) LIMITATIONS.—

(i) HEARING.—A civil penalty may be assessed by the Administrator under this paragraph only after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.

(ii) VIOLATIONS.—This paragraph only applies to civil penalties initiated by the Administrator after the date of the enactment of this paragraph.

(iii) MAXIMUM AMOUNT.—The maximum amount of a civil penalty which may be assessed by the Administrator under this paragraph in any case may not exceed \$50,000.

LIENS

(b) In case an aircraft is involved in such violation and the violation is by the owner or person in command of the aircraft, such aircraft shall be subject to lien for the penalty: *Provided*, That this subsection shall not apply to a violation of a rule or regulation of the Postmaster General.

(c) Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false and under circumstances in which such information may reasonably be believed, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by subsection (i), (j), (k), or (l) of section 902 of this Act, shall be subject to a civil penalty of not more than \$10,000 which shall be recoverable in a civil action brought in the name of the United States.

(d) Except for law enforcement officers of any municipal or State government or officers or employees of the Federal Government, who are authorized or required within their official capacities to carry arms, or other persons who may be so authorized under regulations issued by the Administrator, whoever while aboard, or while attempting to board, any aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about his person or his property a concealed deadly or dangerous weapon, which is, or would be, accessible to such person in flight shall be subject to a civil penalty of not more than \$10,000 which shall be recoverable in a civil action brought in the name of the United States. [49 U.S.C. App. 1471]

CRIMINAL PENALTIES

GENERAL

SEC. 902. (a) Any person who knowingly and willfully violates any provision of this Act (except titles III, V, VI, VII, and XII), or any order, rule, or regulation issued by the Administrator or by the Board under any such provision or any term, condition, or limitation of any certificate or permit issued under title IV, for which no penalty is otherwise provided in this section or in section 904, shall

be deemed guilty of a misdemeanor and upon conviction thereof shall be subject for the first offense to a fine of not more than \$500, and for any subsequent offense to a fine of not more than \$2,000. If such violation is a continuing one, each day of such violation shall constitute a separate offense.

(b) **FORGERY OF CERTIFICATES, FALSE MARKING OF AIRCRAFT, AND OTHER AIRCRAFT REGISTRATION VIOLATIONS.—**

(1) **DESCRIPTION OF VIOLATIONS.—**It shall be unlawful for any person—

(A) to knowingly and willfully forge, counterfeit, alter, or falsely make any certificate authorized to be issued under this Act, or to knowingly sell, use, attempt to use, or possess with the intent to use any such fraudulent certificate;

(B) to obtain any certificate authorized to be issued under this Act by knowingly and willfully falsifying, concealing, or covering up a material fact, or making a false, fictitious, or fraudulent statement or representation, or making or using any false writing or document knowing the writing or document to contain any false, fictitious, or fraudulent statement or entry;

(C) who is the owner of an aircraft eligible for registration under section 501, to knowingly and willfully operate, attempt to operate, or permit any other person to operate such aircraft if such aircraft is not registered under section 501 or the certificate of registration of such aircraft is suspended or revoked, or if such owner knows or has reason to know that such person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

(D) to knowingly and willfully operate or attempt to operate an aircraft eligible for registration under section 501 knowing that such aircraft is not registered under section 501, that the certificate of registration of such aircraft is suspended or revoked, or that such person does not have proper authorization to operate or navigate such aircraft without registration for a period of time after transfer of ownership;

(E) to knowingly and willfully serve, or attempt to serve, in any capacity as an airman without a valid airman certificate authorizing such person to serve in such capacity;

(F) to knowingly and willfully employ for service or utilize any airman who does not possess a valid airman certificate authorizing such person to serve in such capacity;

(G) to operate an aircraft with a fuel tank or fuel system which has been installed or modified on the aircraft knowing that such tank or system or the installation or modification of such tank or system is not in accordance with all applicable rules, regulations, and requirements of the Administrator; or

(H) to knowingly and willfully display or cause to be displayed on any aircraft any marks which are false or misleading as to the nationality or registration of the aircraft.

(2) **PENALTIES.**—Any person who commits a violation of paragraph (1) shall be, upon conviction, subject to—

(A) a fine of not more than \$15,000 or imprisonment for a term of not more than 3 years, or both; or

(B) a fine of not more than \$25,000 or imprisonment for a term of not more than 5 years, or both, if such violation was in connection with the act of transportation by aircraft of a controlled substance or of the aiding or facilitating of a controlled substance offense where such act is punishable by death or imprisonment for a term exceeding 1 year under a State or Federal law or is provided in connection with any act which is punishable by death or imprisonment for a term exceeding 1 year under a State or Federal law relating to a controlled substance (other than a law relating to simple possession of a controlled substance).

Any term of imprisonment imposed under subparagraph (B) shall be in addition to, and shall not be served concurrently with, any other term of imprisonment imposed on such person.

(3) **SEIZURE OF AIRCRAFT.**—

(A) **BY DEA OR CUSTOMS.**—An aircraft used in connection with, or in aiding or facilitating, a violation of paragraph (1) whether or not a person is charged in connection with such violation, may be seized and forfeited by the Drug Enforcement Administration of the Department of Justice or the United States Customs Service in accordance with the customs laws.

(B) **PRESUMPTIONS.**—For purposes of subparagraph (A), an aircraft shall be presumed to have been used in connection with, or to aid or facilitate a violation of—

(i) paragraph (1)(B) if the aircraft is registered to a fictitious or false person;

(ii) paragraph (1)(B) if the application form used to obtain the aircraft registration certificate contains a material false statement;

(iii) paragraph (1)(A) if the registration for the aircraft has been forged, counterfeited, altered, or falsely made;

(iv) paragraph (1)(C) if the aircraft has been operated while it is not registered under section 501;

(v) paragraph (1)(H) if there is an external display of false or misleading registration numbers or false or misleading country of registration;

(vi) paragraph (1)(G) if there is on the aircraft a fuel tank or fuel system which has not been installed or modified in accordance with all applicable rules, regulations, and requirements of the Administrator; and

(vii) paragraph (1)(G) if, in the case of an aircraft on which a fuel tank or fuel system has been installed or modified, a certificate required to be issued by the Administrator for such installation or modification is not carried aboard the aircraft.

(C) MEMORANDUM OF UNDERSTANDING.—The Federal Aviation Administration, the Drug Enforcement Administration, and the United States Customs Service shall enter into a memorandum of understanding for the purpose of establishing procedures for carrying out the objectives of this paragraph.

(4) CONTROLLED SUBSTANCE DEFINED.—For purposes of this section, the term “controlled substance” has the meaning that such term has under section 102 of the Controlled Substances Act (21 U.S.C. 802).

(5) EFFECT ON STATE LAW.—Nothing in this subsection or in any other provision of this Act shall preclude a State from establishing criminal penalties, including providing for forfeiture or seizure of aircraft, for a person who—

(A) knowingly and willfully forges, counterfeits, alters, or falsely makes an aircraft registration certificate;

(B) knowingly sells, uses, attempts to use, or possesses with intent to use a fraudulent aircraft registration certificate;

(C) knowingly and willfully displays or causes to be displayed on any aircraft any marks that are false or misleading as to the nationality or registration of the aircraft; or

(D) obtains an aircraft registration certificate from the administrator by knowingly and willfully falsifying, concealing or covering up a material fact, or making a false, fictitious, or fraudulent statement or representation, or making or using any false writing or document knowing the writing or document to contain any false, fictitious, or fraudulent statement or entry.

INTERFERENCE WITH AIR NAVIGATION

(c) A person shall be subject to a fine of not exceeding \$5,000 or to imprisonment not exceeding five years, or to both such fine and imprisonment, who—

(1) with intent to interfere with air navigation, within the United States, exhibits within the United States any light or signal at such place or in such manner that it is likely to be mistaken for a true light or signal established pursuant to this Act, or for a true light or signal in connection with an airport or other air navigation facility; or

(2) after due warning by the Administrator, continues to maintain any misleading light or signal; or

(3) knowingly removes, extinguishes, or interferes with the operation of any such true light or signal.

GRANTING OR RECEIVING REBATES

(d)(1) Any air carrier, foreign air carrier, or ticket agent, or any officer, agent, employee, or representative thereof, who shall, knowingly and willfully, offer, grant, or give, or cause to be offered, granted, or given, any rebate or other concession in violation of the provisions of this Act, or who, by any device or means, shall, knowingly and willfully, assist, or shall willingly suffer or permit, any

person to obtain transportation or services subject to this Act at less than the rates, fares, or charges lawfully in effect, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject for each offense to a fine of not less than \$100 and not more than \$5,000.

(2) Any person who, in any manner or by any device, knowingly and willfully solicits, accepts, or receives a refund or remittance of any portion of the rates, fares, or charges lawfully in effect for the air transportation of property, or for any service in connection therewith, or knowingly solicits, accepts, or receives any privilege, favor, or facility, with respect to matters required by the Board to be specified in currently effective tariffs applicable to the air transportation of property, shall be fined not less than \$100, nor more than \$5,000, for each offense.

FAILURE TO FILE REPORTS; FALSIFICATION OF RECORDS

(e)(1) Whoever, being an air carrier, or an officer, agent, employee, or representative of an air carrier, intentionally—

(A) fails to make a report or to keep an account, record, or memorandum;

(B) falsifies, mutilates, or alters a report, account, record, or memorandum; or

(C) files a false report, account, record, or memorandum; under this Act, shall be fined not more than \$5,000 in the case of an individual and not more than \$10,000 in the case of a person other than an individual.

(2) Whoever, being an air carrier, or an officer, agent, employee, or representative of an air carrier, intentionally—

(A) falsifies or conceals a material fact; or

(B) invites reliance on a false statement or representation concerning a material fact;

in a report, account, record, or memorandum under title VI of this Act shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

DIVULGING INFORMATION

(f) If the Administrator or any member of the Board, or any officer or employee of either, shall knowingly and willfully divulge any fact or information which may come to his knowledge during the course of an examination of the accounts, records, and memoranda of any air carrier, or which is withheld from public disclosure under section 1104, except as he may be directed by the Administrator or the Board in the case of information ordered to be withheld by either, or by a court of competent jurisdiction or a judge thereof, he shall upon conviction thereof be subject for each offense to a fine of not more than \$5,000 or imprisonment for not more than two years, or both: *Provided*, That nothing in this section shall authorize the withholding of information by the Administrator or Board from the duly authorized committees of the Congress.

REFUSAL TO TESTIFY

(g) Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce books, papers, or documents, if in his power to do so, in obedience to the subpoena or lawful requirement of the Board or Administrator, shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not less than \$100 nor more than \$5,000, or imprisonment for not more than one year, or both.

HAZARDOUS MATERIALS

(h)(1) In carrying out his responsibilities under this Act, the Secretary of Transportation may exercise the authority vested in him by section 105 of the Hazardous Materials Transportation Act to provide by regulation for the safe transportation of hazardous materials by air.

(2) A person is guilty of an offense if he willfully delivers or causes to be delivered to an air carrier or to the operator of a civil aircraft for transportation in air commerce, or if he recklessly causes the transportation in air commerce of, any shipment, baggage, or other property which contains a hazardous material, in violation of any rule, regulation, or requirement with respect to the transportation of hazardous materials issued by the Secretary of Transportation under this Act. Upon conviction, such person shall be subject, for each offense, to a fine of not more than \$25,000, imprisonment for a term not to exceed 5 years, or both.

(3) Nothing in this subsection shall be construed to prohibit or regulate the transportation by any individual, for personal use, of any firearm (as defined in paragraph (4) of section 232 of title 18, United States Code) or any ammunition therefor.

AIRCRAFT PIRACY

(i)(1) Whoever commits or attempts to commit aircraft piracy, as herein defined, shall be punished—

(A) by imprisonment for not less than 20 years; or

(B) notwithstanding the provisions of 18 U.S.C. 3559(b), if the death of another person results from the commission or attempted commission of the offense, by death or by imprisonment for life.

(2) As used in this subsection, the term "aircraft piracy" means any seizure or exercise of control, by force or violence or threat of force or violence, or by any other form of intimidation, and with wrongful intent, of an aircraft within the special aircraft jurisdiction of the United States.¹

(3) An attempt to commit aircraft piracy shall be within the special aircraft jurisdiction of the United States even though the aircraft is not in flight at the time of such attempt if the aircraft would have been within the special aircraft jurisdiction of the United States had the offense of aircraft piracy been completed.

¹ Public Law 91-449, § 1(3) inadvertently inserted an additional period in subsections (i)(2), (j), (k)(1), and (k)(2) which is omitted here.

INTERFERENCE WITH FLIGHT CREW MEMBERS OR FLIGHT ATTENDANTS

(j) Whoever, while aboard an aircraft within the special aircraft jurisdiction of the United States,¹ assaults, intimidates, or threatens any flight crew member or flight attendant (including any steward or stewardess) of such aircraft, so as to interfere with the performance by such member or attendant of his duties or lessen the ability of such member or attendant to perform his duties, shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both. Whoever in the commission of any such act uses a deadly or dangerous weapon shall be imprisoned for any term of years or for life.

CERTAIN CRIMES ABOARD AIRCRAFT IN FLIGHT

(k)(1) Whoever, while aboard an aircraft within the special aircraft jurisdiction of the United States,¹ commits an act which, if committed within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of title 18, United States Code, would be in violation of section 113, 114, 661, 662, 1111, 1112, 1113, chapter 109A, or 2111 of such title 18 shall be punished as provided therein.

(2) Whoever, while aboard an aircraft within the special aircraft jurisdiction of the United States,¹ commits an act, which, if committed in the District of Columbia would be in violation of section 9 of the Act entitled "An Act for the preservation of the public peace and the protection of property within the District of Columbia", approved July 29, 1892, as amended (D.C. Code, sec. 22-1112), shall be punished as provided therein.

CARRYING WEAPONS OR EXPLOSIVES ABOARD AIRCRAFT

(l)(1) With respect to any aircraft in, or intended for operation in air transportation or intrastate air transportation, whoever—

(A) while aboard, or while attempting to board such aircraft has on or about his person or his property a concealed deadly or dangerous weapon which is, or could be, accessible to such person in flight;

(B) has placed, attempted to place, or attempted to have placed a loaded firearm aboard such aircraft in baggage or other property which is not accessible to passengers in flight; or

(C) has on or about his person, or who placed, attempted to place, or attempted to have placed aboard such aircraft any bomb or similar explosive or incendiary device; shall be fined not more than \$10,000 or imprisoned not more than one year, or both. [49 U.S.C. App. 1472]

(2) Whoever willfully and without regard for the safety of human life, or with reckless disregard for the safety of human life, shall commit an act prohibited by paragraph (1) of this subsection, shall be fined not more than \$25,000 or imprisoned not more than five years, or both.

¹ See footnote on p. 117.

(3) Paragraph (1)(A) of this subsection shall not apply to law enforcement officers of any municipal or State government, or officers or employees of the Federal Government, who are authorized or required within their official capacities to carry arms, or to persons who may be authorized, under regulations issued by the Administrator, to carry deadly or dangerous weapons in air transportation or intrastate air transportation; nor shall it apply to persons transporting weapons (other than loaded firearms) contained in baggage which is not accessible to passengers in flight if the presence of such weapons has been declared to the air carrier.

(4) For purposes of this subsection—

(A) the term "firearm" means any starter gun and any weapon which is designed to or has been converted to expel any projectile by the action of an explosive; and

(B) the term "loaded firearm" means any firearm which has a cartridge, a detonator, or power in the chamber, magazine, cylinder, or clip of such firearm.

FALSE INFORMATION AND THREATS

(m)(1) Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false and under circumstances in which such information may reasonably be believed, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a felony prohibited by subsection (i), (j), (k), or (l) of this section, shall be fined not more than \$25,000 or imprisoned not more than five years, or both.

(2) Whoever imparts or conveys or causes to be imparted or conveyed any threat to do an act which would be a felony prohibited by subsection (i), (j), (k), or (l) of this section with an apparent determination and will to carry the threat into execution shall be fined not more than \$25,000 or imprisoned not more than five years, or both.

AIRCRAFT PIRACY OUTSIDE SPECIAL AIRCRAFT JURISDICTION OF THE UNITED STATES

(n)(1) Whoever aboard an aircraft in flight outside the special aircraft jurisdiction of the United States commits "an offense", as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, and is afterward found in the United States shall be punished—

(A) by imprisonment for not less than 20 years; or

(B) notwithstanding the provisions of 18 U.S.C. 3559(b), if the death of another person results from the commission or attempted commission of the offense, by death or by imprisonment for life.

(2) A person commits "an offense", as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft when, while aboard an aircraft in flight, he—

(A) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act; or

(B) is an accomplice of a person who performs or attempts to perform any such act.

(3) This subsection shall only be applicable if the place of takeoff or the place of actual landing of the aircraft on board which the offense, as defined in paragraph (2) of this subsection, is committed is situated outside the territory of the State of registration of that aircraft.

(4) For purposes of this subsection an aircraft is considered to be in flight from the moment when all the external doors are closed following embarkation until the moment when one such door is opened for disembarkation, or in the case of a forced landing, until the competent authorities take over responsibility for the aircraft and for the persons and property aboard.

INVESTIGATIONS BY FEDERAL BUREAU OF INVESTIGATION

(o) Violations of subsections (i) through (n), inclusive, and subsection (r) of this section shall be investigated by the Federal Bureau of Investigation of the Department of Justice.

INTERFERENCE WITH AIRCRAFT ACCIDENT INVESTIGATION

(p) Any person who knowingly and without authority removes, conceals, or withholds any part of a civil aircraft involved in an accident, shall be fined in accordance with title 18, United States Code, or imprisoned not more than 10 years, or both.

(q) LIGHTING VIOLATIONS IN CONNECTION WITH TRANSPORTATION OF CONTROLLED SUBSTANCES.—

(1) DESCRIPTION OF VIOLATION.—It shall be unlawful, in connection with an act described in paragraph (2) and with knowledge of such act, for any person to knowingly and willfully operate an aircraft in violation of any rule, regulation, or requirement issued by the Administrator with respect to the display of navigation or anticollision lights.

(2) RELATIONSHIP TO CONTROLLED SUBSTANCE OFFENSES.—The act referred to in paragraph (1) is the transportation by aircraft of any controlled substance or the aiding or facilitating of a controlled substance offense where such act is punishable by death or imprisonment for a term exceeding one year under a State or Federal law or is provided in connection with any act that is punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than a law relating to simple possession of a controlled substance).

(3) PENALTY.—A person violating this subsection shall be subject to a fine not exceeding \$25,000, or imprisonment not exceeding 5 years, or both.

(r) SECURED AREAS OF AIRPORTS.—

(1) VIOLATION.—It shall be unlawful for any person to knowingly and willfully enter an aircraft or an airport area that serves air carriers or foreign air carriers contrary to security requirements established pursuant to section 315 or 316 of this Act.

(2) GENERAL PENALTY.—Upon conviction of a violation of paragraph (1), a person shall be subject to imprisonment for a

term not to exceed 1 year or a fine not to exceed \$1,000, or both.

(3) **PENALTY FOR VIOLATIONS IN CONNECTION WITH FELONIES.**— If any person violates paragraph (1) of this subsection with the intent to commit in the aircraft or secured area an act punishable as a felony under Federal or State law, such person shall be subject to imprisonment for a term not to exceed 10 years or a fine not to exceed \$10,000, or both. [49 U.S.C. App. 1472]

VENUE AND PROSECUTION OF OFFENSES

VENUE

SEC. 903. (a) The trial of any offense under this Act shall be in the district in which such offense is committed; or, if the offense is committed out of the jurisdiction of any particular State or district, the trial shall be in the district where the offender, or any one of two or more joint offenders, is arrested or is first brought. If such offender or offenders are not so arrested or brought into any district, an indictment or information may be filed in the district of the last known residence of the offender or of any one of two or more joint offenders, or if no such residence is known the indictment or information may be filed in the District of Columbia. Whenever the offense is begun in one jurisdiction and completed in another, or committed in more than one jurisdiction, it may be dealt with, inquired of, tried, determined, and punished in any jurisdiction in which such offense was begun, continued, or completed, in the same manner as if the offense had been actually and wholly committed therein.

PROCEDURE IN RESPECT OF CIVIL PENALTIES

(b)(1) Any civil penalty imposed or assessed under this Act may be collected by proceedings in personam against the person subject to the penalty and, in case the penalty is a lien, by proceedings in rem against the aircraft, or by either method alone. Such proceedings shall conform as nearly as may be to civil suits in admiralty, except that with respect to proceedings involving penalties other than those assessed by the Board, either party may demand trial by jury of any issue of fact, if the value in controversy exceeds \$20, and the facts so tried shall not be reexamined other than in accordance with the rules of the common law. The fact that in a libel in rem the seizure is made at a place not upon the high seas or navigable waters of the United States shall not be held in any way to limit the requirement of the conformity of the proceedings to civil suits in rem in admiralty.

(2) Any aircraft subject to such lien may be summarily seized by and placed in the custody of such persons as the Board or Administrator may by regulation prescribe, and a report of the cause shall thereupon be transmitted to the United States attorney for the judicial district in which the seizure is made. The United States attorney shall promptly institute proceedings for the enforcement of the lien or notify the Board or Administrator of his failure to so act.

(3) The aircraft shall be released from such custody upon payment of the penalty or the amount agreed upon in compromise; or seizure in pursuance of process of any court in proceedings in rem for enforcement of the lien, or notification by the United States attorney of failure to institute such proceedings; or deposit of a bond in such amount and with such sureties as the Board or Administrator may prescribe, conditioned upon the payment of the penalty or the amount agreed upon in compromise.

(4) The Supreme Court of the United States, and under its direction other courts of the United States, may prescribe rules regulating such proceedings in any particular not provided by law.

PROCEDURE IN RESPECT OF PENALTY FOR AIRCRAFT PIRACY

(c)(1) A person shall be subjected to the penalty of death for any offense prohibited by section 902(i) or 902(n) of this Act only if a hearing is held in accordance with this subsection.

(2) When a defendant is found guilty of or pleads guilty to an offense under section 902(i) or 902(n) of this Act for which one of the sentences provided is death, the judge who presided at the trial or before whom the guilty plea was entered shall conduct a separate sentencing hearing to determine the existence or nonexistence of the factors set forth in paragraphs (6) and (7), for the purpose of determining the sentence to be imposed. The hearing shall not be held if the Government stipulates that none of the aggravating factors set forth in paragraph (7) exists or that one or more of the mitigating factors set forth in paragraph (6) exists. The hearings shall be conducted—

(A) before the jury which determined the defendant's guilt;

(B) before a jury impaneled for the purpose of the hearing if—

(i) the defendant was convicted upon a plea of guilty;

(ii) the defendant was convicted after a trial before the court sitting without a jury; or

(iii) the jury which determined the defendant's guilt has been discharged by the court for good cause; or

(C) before the court alone, upon the motion of the defendant and with the approval of the court and of the Government.

(3) In the sentencing hearing the court shall disclose to the defendant or his counsel all material contained in any presentence report, if one has been prepared, except such material as the court determines is required to be withheld for the protection of human life or for the protection of the national security. Any presentence information withheld from the defendant shall not be considered in determining the existence or the nonexistence of the factors set forth in paragraph (6) or (7). Any information relevant to any of the mitigating factors set forth in paragraph (6) may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials; but the admissibility of information relevant to any of the aggravating factors set forth in paragraph (7) shall be governed by the rules governing the admission of evidence at criminal trials. The Government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair op-

portunity to present argument as to the adequacy of the information to establish the existence of any of the factors set forth in paragraph (6) or (7). The burden of establishing the existence of any of the factors set forth in paragraph (7) is on the Government. The burden of establishing the existence of any of the factors set forth in paragraph (6) is on the defendant.

(4) The jury or, if there is no jury, the court shall return a special verdict setting forth its findings as to the existence or nonexistence of each of the factors set forth in paragraph (6) and as to the existence or nonexistence of each of the factors set forth in paragraph (7).

(5) If the jury or, if there is no jury, the court finds by a preponderance of the information that one or more of the factors set forth in paragraph (7) exists and that none of the factors set forth in paragraph (6) exists, the court shall sentence the defendant to death. If the jury or, if there is no jury, the court finds that none of the aggravating factors set forth in paragraph (7) exists, or finds that one or more of the mitigating factors set forth in paragraph (6) exists, the court shall not sentence the defendant to death but shall impose any other sentence provided for the offense for which the defendant was convicted.

(6) The court shall not impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in paragraph (4) that at the time of the offense—

(A) he was under the age of eighteen;

(B) his capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to prosecution;

(C) he was under unusual and substantial duress, although not such duress as to constitute a defense to prosecution;

(D) he was a principal (as defined in section 2(a) of title 18 of the United States Code) in the offense, which was committed by another, but his participation was relatively minor, although not so minor as to constitute a defense to prosecution; or

(E) he could not reasonably have foreseen that his conduct in the course of the commission of the offense for which he was convicted would cause, or would create a grave risk of causing death to another person.

(7) If no factor set forth in paragraph (6) is present, the court shall impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in paragraph (4) that—

(A) the death of another person resulted from the commission of the offense but after the defendant had seized or exercised control of the aircraft; or

(B) the death of another person resulted from the commission or attempted commission of the offense, and—

(i) the defendant has been convicted of another Federal or State offense (committed either before or at the time of the commission or attempted commission of the offense)

for which a sentence of life imprisonment or death was impossible;

(ii) the defendant has previously been convicted of two or more State or Federal offenses with a penalty of more than one year imprisonment (committed on different occasions before the time of the commission or attempted commission of the offense), involving the infliction of serious bodily injury upon another person;

(iii) in the commission or attempted commission of the offense, the defendant knowingly created a grave risk of death to another person in addition to the victim of the offense or attempted offense; or

(iv) the defendant committed or attempted to commit the offense in an especially heinous, cruel, or depraved manner. [49 U.S.C. App. 1473]

VIOLATIONS OF SECTION 1109

SEC. 904. (a) Any person who (1) violates any entry or clearance regulation made under section 1109(c) of this Act, or (2) any immigration regulations made under such section, shall be subject to a civil penalty of \$5,000 which may be remitted or mitigated by the Secretary of the Treasury, or the Attorney General, respectively, in accordance with such proceedings as the Secretary or Attorney General shall by regulation prescribe. Any person violating any customs regulation made under section 1109(b) of this Act, or any provision of the customs or public-health laws or regulations thereunder made applicable to aircraft by regulation under such section shall be subject to a civil penalty of \$5,000, and any aircraft used in connection with any such violation shall be subject to seizure and forfeiture as provided for in such customs laws, which penalty and forfeiture may be remitted or mitigated by the Secretary of the Treasury. In addition to any other penalty, if any controlled substance described in section 584 of the Tariff Act of 1930 (19 U.S.C. 1584) is found on board of, or to have been unladen from, an aircraft subject to section 1109 (b) and (c) of this Act, the owner or person in charge of such aircraft shall be subject to the penalties provided for in section 584 of the Tariff Act of 1930 (19 U.S.C. 1584), unless such owner or person is able to demonstrate, by a preponderance of the evidenced,¹ that such owner or person did not know, and could not, by the exercise of the highest degree of care and diligence, have known, that any such controlled substance was on board. In the case the violation is by the owner, operator, or person in command of the aircraft, any penalty imposed by this section shall be a lien against the aircraft. Any person violating any provision of the laws and regulations relating to animal and plant quarantine made applicable to civil air navigation by regulation in accordance with section 1109(d) of this Act shall be subject to the same penalties as those provided by the said laws for violations thereof. Any civil penalty imposed under this section may be collected by proceedings in personam against the person subject to

¹ So in original.

the penalty and/or in case the penalty is a lien, by proceedings in rem against the aircraft. Such proceedings shall conform as nearly as may be to civil suits in admiralty; except that either party may demand trial by jury of any issue of fact, if the value in controversy exceeds \$20, and facts so tried shall not be reexamined other than in accordance with the rules of the common law. The fact that in a libel in rem the seizure is made at a place not upon the high seas or navigable waters of the United States, shall not be held in any way to limit the requirement of the conformity of the proceedings to civil suits in rem in admiralty. The Supreme Court of the United States, and under its direction other courts of the United States, are authorized to prescribe rules regulating such proceedings in any particular not provided by law. The determination under this section as to the remission or mitigation of a civil penalty imposed under this section shall be final. In case libel proceedings are pending at any time during the pendency of remission or mitigation proceedings, the Secretary or Attorney General shall give notice thereof to the United States attorney prosecuting the libel proceedings.

(b) Any aircraft subject to a lien for any civil penalty imposed under this section may be summarily seized by and placed in the custody of such persons as the appropriate Secretary or Attorney General may by regulation prescribe and a report of the case thereupon transmitted to the United States attorney for the judicial district in which the seizure is made. The United States attorney shall promptly institute proceedings for the enforcement of the lien or notify the Secretary of his failure so to act. The aircraft shall be released from such custody upon (1) payment of the penalty or so much thereof as is not remitted or mitigated, (2) seizure in pursuance of process of any court in proceedings in rem for enforcement of the lien, or notification by the United States attorney of failure to institute such proceedings, or (3) deposit of a bond in such amount and with such sureties as the Secretary or Attorney General may prescribe, conditioned upon the payment of the penalty or so much thereof as is not remitted or mitigated. [49 U.S.C. App. 1474]

SEC. 905. CIVIL PENALTY ASSESSMENT DEMONSTRATION PROGRAM.

(a) **CIVIL PENALTY.**—The Administrator, or his delegate, may assess a civil penalty for a violation arising under this Act or a rule, regulation, or order issued thereunder, upon written notice and finding of violation by the Administrator.

(b) **NO REEXAMINATION OF LIABILITY OR AMOUNT.**—In the case of a civil penalty assessed by the Administrator in accordance with this section, the issue of liability or amount of civil penalty shall not be reexamined in any subsequent suit for collection of such civil penalty.

(c) **CONTINUING JURISDICTION OF DISTRICT COURTS.**—Notwithstanding subsection (a) of this section, the United States district courts shall have exclusive jurisdiction of any civil penalty action initiated by the Administrator (1) which involves an amount in controversy in excess of \$50,000; (2) which is an in rem action or in which an in rem action based on the same violation has been brought; (3) regarding which an aircraft subject to lien has been

seized by the United States; and (4) in which a suit for injunctive relief based on the violation giving rise to the civil penalty has also been brought.

(d) LIMITATIONS.—

(1) HEARING.—A civil penalty may be assessed under this section only after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.

(2) VIOLATIONS.—This section only applies to civil penalties initiated by the Administrator after the date of the enactment of this section.

(3) MAXIMUM AMOUNT.—The maximum amount of a civil penalty which may be assessed under this section in any case may not exceed \$50,000.

(4) EFFECTIVE PERIOD.—The provisions of this section shall only be in effect for the 2-year period beginning on the date of the enactment of this section.¹ [49 U.S.C. App. 1475]

TITLE X—PROCEDURE ²

CONDUCT OF PROCEEDING

SEC. 1001. The Board and the Administrator, subject to the provisions of this Act and the Administrative Procedure Act,³ may conduct their proceedings in such manner as will be conducive to the proper dispatch of business and to the ends of justice. No member of the Board or Agency shall participate in any hearing or proceeding in which he has a pecuniary interest. Any person may appear before the Board or Agency and be heard in person or by attorney. The Board, in its discretion, may enter its appearance and participate as an interested party in any proceeding conducted by the Administrator under title III of this Act, and in any proceeding conducted by the Administrator under title VI of this Act from which no appeal is provided to the Board. Every vote and official act of the Board and the Agency shall be entered of record, and the proceedings thereof shall be open to the public upon request of any interested party, unless the Board or the Administrator determines that secrecy is requisite on grounds of national defense. [49 U.S.C. App. 1481]

COMPLAINTS TO AND INVESTIGATIONS BY THE ADMINISTRATOR AND THE BOARD

FILING OF COMPLAINTS AUTHORIZED

SEC. 1002. (a) Any person may file with the Administrator or the Board, as to matters within their respective jurisdictions, a complaint in writing with respect to anything done or omitted to be done by any person in contravention of any provisions of this Act,

¹ Effective thru December 30, 1989.

² For terminations and transfers of functions of the Civil Aeronautics Board, see section 1601 of this Act.

³ Now subchapter II of chapter 5, and chapter 7, of title 5, United States Code. Public Law 89-554 § 7(b), 80 Stat. 631.

or of any requirement established pursuant thereto. If the person complained against shall not satisfy the complaint and there shall appear to be any reasonable ground for investigating the complaint, it shall be the duty of the Administrator or the Board to investigate the matters complained of. Whenever the Administrator or the Board is of the opinion that any complaint does not state facts which warrant an investigation or action, such complaint may be dismissed without hearing. In the case of complaints against a member of the Armed Forces of the United States acting in the performance of his official duties, the Administrator or the Board, as the case may be, shall refer the complaint to the Secretary of the department concerned for action. The Secretary shall, within ninety days after receiving such a complaint, inform the Administrator or the Board of his disposition of the complaint, including a report as to any corrective or disciplinary actions taken.

INVESTIGATIONS ON INITIATIVE OF ADMINISTRATOR OR BOARD

(b) The Administrator or Board, with respect to matters within their respective jurisdictions, is empowered at any time to institute an investigation, on their own initiative, in any case and as to any matter or thing within their respective jurisdictions, concerning which complaint is authorized to be made to or before the Administrator or Board by any provision of this Act, or concerning which any question may arise under any of the provisions of this Act, or relating to the enforcement of any of the provisions of this Act. The Administrator or the Board shall have the same power to proceed with any investigation instituted on their own motion as though it had been appealed to by complaint.

ENTRY OF ORDERS FOR COMPLIANCE WITH ACT

(c) If the Administrator or the Board finds, after notice and hearing, in any investigation instituted upon complaint or upon their own initiative, with respect to matters within their jurisdiction, that any person has failed to comply with any provision of this Act or any requirement established pursuant thereto, the Administrator or the Board shall, subject to section 1102(a) of this Act, issue an appropriate order to compel such person to comply therewith.

POWER TO PRESCRIBE RATES AND PRACTICES OF AIR CARRIERS

(d)(1)¹ Except as provided in paragraph (2) or (4) of this subsection, whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any individual or joint rate, fare, or charge demanded, charged, collected or received by any air carrier for interstate air transportation of persons, air transportation of property within the State of Alaska, air transportation of property within the State of Hawaii, or overseas air transportation, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, is or will be unjust or unreasonable, or unjustly dis-

¹ Section 1002 (d), (e), (g), (h), and (i) authority terminated January 1, 1985, to the extent provisions relate to interstate and overseas air transportation. Section 1601(a)(5)(D) of this Act.

criminary, or unduly preferential, or unduly prejudicial, the Board shall determine and prescribe the lawful rate, fare, or charge (or the maximum or minimum, or the maximum and minimum thereof) thereafter to be demanded, charged, collected, or received or the lawful classification, rule, regulation, or practice thereafter to be made effective.

(2) With respect to rates, fares, and charges for overseas air transportation, the Board shall determine and prescribe only a just and reasonable maximum or minimum, or maximum and minimum rate, fare, or charge.

(3) Whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any individual or joint rate or charge demanded, charged, collected, or received by any air carrier for interstate air transportation of property or any classification, rule, regulation, or practice affecting such rate or charge, or the value of the service thereunder, is or will be unjustly discriminatory, or unduly preferential, or unduly prejudicial, or predatory the Board shall alter such rate, charge, classification, rule, regulation, or practice to the extent necessary to correct such discrimination, preference, prejudice, or predatory practice and make an order that the air carrier or foreign air carrier shall discontinue demanding, charging, collecting, or receiving any such discriminatory, preferential, prejudicial, or predatory rate or charge or enforcing any such discriminatory, preferential, prejudicial, or predatory classification, rule, regulation, or practice.

(4) The Board shall not have authority to find any fare for interstate or overseas air transportation of persons to be unjust or unreasonable on the basis that such fare is too low or too high if—

(A) with respect to any proposed increase filed with the Board on or after July 1, 1979 (other than any proposed increase in any fare filed by any air carrier if such proposed fare is for air transportation between any pair of points and such air carrier provides air transportation to 70 per centum or more of the persons traveling in air transportation between such points on aircraft operated by air carriers with certificates issued under section 401 of this Act), such proposed fare would not be more than 5 per centum higher than the standard industry fare level for the same of essentially similar class of service, except that, while no increase of any fare within the limits specified in this subparagraph may be suspended, an increase in such fare, above the standard industry fare level shall be found unlawful if that increase results in a fare which is unduly preferential, unduly prejudicial, or unjustly discriminatory; or

(B) with respect to any proposed decrease filed after the date of enactment of this paragraph, the proposed fare would not be more than 50 per centum lower than the standard industry fare level for the same or essentially similar class of service, except that this provision shall not apply to any proposed decrease in any fare if the Board determines that such proposed fare would be predatory.

In determining whether any fare for air transportation of persons is unjust or unreasonable on the basis that it is too high, the Board

shall take into consideration reasonably estimated or foreseeable future costs and revenues for a reasonably limited future period during which the fare at issue would be in effect.

(5) In any Board proceeding under paragraph (1) of this subsection with respect to interstate or overseas air transportation of persons, the party opposing any fare or charge on the basis that it is too low shall have the burden of proving that the fare or charge is too low.

(6)(A) For purposes of paragraph (4) of this section, "standard industry fare level" means the fare level (as adjusted only in accordance with subparagraph (B) of this paragraph) in effect on July 1, 1977, for each interstate or overseas pair of points, for each class of service existing on that date, and in effect on the effective date of the establishment of each additional class of service established after July 1, 1977.

(B) The Board shall, not less than semiannually, adjust each standard industry fare level specified in subparagraph (A) by increasing or decreasing such fare level, as the case may be, by the percentage change from the last previous period in the actual operating cost per available seat-mile for interstate and overseas transportation combined. In determining the standard, the Board shall make no adjustment to costs actually incurred.

(C) Not later than July 1, 1979, the Board shall issue rules modifying the rules governing those classes of service in existence on July 1, 1977, which classes provide lower fare levels during off-peak periods, so as to expand the period of availability of such classes. The Board shall allow any air carrier to establish additional classes of service in accordance with the objectives of subsection (e)(5) of this section or as may be otherwise consistent with the public interest.

(7) The Board may by rule increase the percentage specified in paragraph (4)(B) of this subsection.

(8) Whenever a complaint is filed with the Board by a civic party under this subsection alleging that any individual or joint fare or charge demanded, charged, collected, or received for interstate or overseas air transportation is or will be unjustly discriminatory, unduly preferential, unduly prejudicial, or predatory, the Board shall grant, deny, or dismiss such complaint within ninety days after such complaint is filed.

RULE OF RATEMAKING

(e)¹ In exercising and performing its power and duties with respect to determining rates, fares, and charges described in paragraph (1) of subsection (d) of this section, the Board shall take into consideration, among other factors—

- (1) the criteria set forth in section 102 of this Act;
- (2) the need for adequate and efficient transportation of persons and property at the lowest cost consistent with the furnishing of such service;
- (3) the effect of prices upon the movement of traffic;

¹ See footnote, p. 127.

- (4) the desirability of a variety of price and service options such as peak and off-peak pricing or other pricing mechanisms to improve economic efficiency and provide low-cost air service; and
- (5) the desirability of allowing an air carrier to determine prices in response to particular competitive market conditions on the basis of such air carrier's individual costs.

REMOVAL OF DISCRIMINATION IN FOREIGN AIR TRANSPORTATION

(f) Whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any individual or joint rate, fare, or charge demanded, charged, collected, or received by any air carrier of foreign air carrier for foreign air transportation, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, is or will be unjustly discriminatory, or unduly preferential, or unduly prejudicial, the Board may alter the same to the extent necessary to correct such discrimination, preference, or prejudice and make an order that the air carrier or foreign air carrier shall discontinue demanding, charging, collecting, or receiving any such discriminatory, preferential, or prejudicial rate, fare, or charge or enforcing any such discriminatory, preferential, or prejudicial classification, rule, regulation, or practice.

SUSPENSION OF RATES

(g) ¹ Whenever any air carrier shall file with the Board a tariff stating a new individual or joint (between air carriers) rate, fare, or charge for interstate or overseas air transportation or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once, and, if it so orders, without answer or other formal pleading by the air carrier, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, the Board, by filing with such tariff, and delivering to the air carrier affected thereby at least fifteen days before the day on which such tariff would otherwise go into effect, a statement in writing of its reasons for such suspension, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, for a period of ninety days, and, if the proceeding has not been concluded and a final order made within such period, the Board may, from time to time, extend the period of suspension, but not for a longer period in the aggregate than one hundred and eighty days beyond the time when such tariff would otherwise go into effect; and, after hearing, whether completed before or after the rate, fare, charge, classification, rule, regulation, or practice goes into effect, the Board may make such order with reference thereto as would be proper in a proceeding instituted after such rate, fare, charge, clas-

¹ See footnote, p. 127.

sification, rule, regulation, or practice had become effective. If the proceeding has not been concluded and an order made within the period of suspension, the proposed rate, fare, charge, classification, rule, regulation, or practice shall go into effect at the end of such period, except that this subsection shall not apply to any initial tariff filed by any air carrier. The Board shall not suspend any proposed tariff under this subsection because of the proposed rate, fare, charge, classification, rule, regulation, or practice stated therein unless the Board is empowered to find such proposed rate, fare, charge, classification, rule, regulation, or practice unjust or unreasonable and empowered to determine and prescribe the lawful rate, fare, charge, classification, rule, regulation, or practice, or the lawful maximum or minimum, or maximum and minimum rate, fare, or charge.

POWER TO PRESCRIBE DIVISIONS OF RATES

(h) ¹ Whenever, after notice and hearing, upon complaint or upon its own initiative, the Board is of the opinion that the divisions of joint rates, fares, or charges for interstate air transportation of persons, air transportation of property within the State of Alaska, air transportation of property within the State of Hawaii, or overseas or foreign air transportation are or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the air carriers or foreign air carriers parties thereto, the Board shall prescribe the just, reasonable, and equitable divisions thereof to be received by the several air carriers. The Board may require the adjustment of divisions between such air carriers from the date of filing the complaint or entry of order of investigation, or such other date subsequent thereto as the Board finds to be just, reasonable, and equitable.

POWER TO ESTABLISH THROUGH AIR TRANSPORTATION SERVICE

(i) ¹ The Board shall, whenever required by the public convenience and necessity, after notice and hearing, upon complaint or upon its own initiative, establish through service and joint rates, fares, or charges (or the maxima or minima, or the maxima and minima thereof) for interstate air transportation of persons, air transportation of property within the State of Alaska, air transportation of property within the State of Hawaii, or overseas air transportation, or the classifications, rules, regulations, or practices affecting such rates, fares, or charges, or the value of the service thereunder, and the terms and conditions under which such through service shall be operated: *Provided*, That as to joint rates, fares, and charges for overseas air transportation the Board shall determine and prescribe only just and reasonable maximum or minimum or maximum and minimum joint rates, fares, or charges.

¹ See footnote, p. 127.

SUSPENSION AND REJECTION OF RATES IN FOREIGN AIR
TRANSPORTATION

(j)(1) Whenever any air carrier or foreign air carrier shall file with the Board a tariff stating a new individual or joint (between air carriers, between foreign air carriers, or between an air carrier or carriers and a foreign air carrier or carriers) rate, fare, or charge for foreign air transportation or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once, and, if it so orders, without answer or other formal pleading by the air carrier or foreign air carrier, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, or in the case of a tariff filed by a foreign air carrier if such action is in the public interest, the Board, by filing with such tariff, and delivering to the air carrier or foreign air carrier affected thereby, a statement in writing of its reasons for such suspension, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, for a period or periods not exceeding 365 days in the aggregate beyond the time when such tariff would otherwise go into effect. If, after hearing, the Board shall be of the opinion that such rate, fare, or charge, or such classification, rule, regulation, or practice, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or in the case of a tariff filed by a foreign air carrier if the Board concludes with or without hearing that such action is in the public interest, the Board may take action to reject or cancel such tariff and prevent the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. The Board may at any time rescind the suspension of such tariff and permit the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. If the proceeding has not been concluded and an order made within the period of suspension or suspensions, or if the Board shall otherwise so direct, the proposed rate, fare, charge, classification, rule, regulation, or practice shall go into effect subject, however, to being canceled when the proceeding is concluded. During the period of any suspension or suspensions, or following rejection or cancellation of a tariff, including tariffs which have gone into effect provisionally, the affected air carrier or foreign air carrier shall maintain in effect and use the rate, fare, or charge, or the classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of service thereunder which was in effect immediately prior to the filing of the new tariff or such other rate, fare or charge as may be provided for under an applicable intergovernmental agreement or understanding. If the suspension, rejection, or cancellation is of an initial tariff, the affected air carrier or foreign air carrier may file for purposes of operations pending effectiveness of a new tariff, a tariff embodying any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of service thereunder, that may be current-

ly in effect (and not subject to a suspension order) for any air carrier engaged in the same foreign air transportation.

(2) With respect to any existing tariff of an air carrier or foreign air carrier stating rates, fares, or charges for foreign air transportation, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once and, if it so orders, without answer or other formal pleading by the air carrier or foreign air carrier, but upon reasonable notice, to enter into a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, or in the case of a tariff filed by a foreign air carrier if such action is in the public interest, the Board upon reasonable notice, and by filing with such tariff, and delivering to the air carrier or foreign air carrier affected thereby, a statement in writing of its reasons for such suspension, and the effective date thereof, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, following the effective date of such suspension, for a period or periods not exceeding 365 days in the aggregate from the effective date of such suspension. If, after hearing, the Board shall be of the opinion that such rate, fare, or charge, or such classification, rule, regulation, or practice, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or in the case of a tariff filed by a foreign air carrier if the Board concludes with or without hearing that such action is in the public interest, the Board may take action to cancel such tariff and prevent the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. If the proceeding has not been concluded within the period of suspension or suspensions, the tariff shall again go into effect subject, however, to being canceled when the proceeding is concluded. For the purposes of operation during the period of such suspension, or the period following cancellation of an existing tariff pending effectiveness of a new tariff, the air carrier or foreign air carrier may file a tariff embodying any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of service thereunder, that may be currently in effect (and not subject to a suspension order) for any air carrier engaged in the same foreign air transportation.

(3) Whenever the Board finds that the government or aeronautical authorities of any foreign country have refused to permit the charging of rates, fares, or charges contained in a properly filed and published tariff of an air carrier filed under this Act for foreign air transportation to such foreign country, the Board may, without hearing, (A) suspend the operation of any existing tariff of any foreign air carrier providing services between the United States and such foreign country for a period or periods not exceeding three hundred and sixty-five days in the aggregate from the date of such suspension, and (B) during the period of such suspension or suspensions, order the foreign air carrier to charge rate, fares, or charges which are the same as those contained in a properly filed and published tariff (designated by the Board) of an air

carrier filed under this Act for foreign air transportation to such foreign country, and the effective right of an air carrier to start or continue service at the designated rates, fares, or charges to such foreign country shall be a condition to the continuation of service by the foreign air carrier in foreign air transportation to such foreign country.

(4) The provisions of this subsection and compliance with any order of the Board issued pursuant thereto shall be an express condition to the certificates or permits now held or hereafter issued to any air carrier or foreign air carrier, and the maintenance of rates, fares, or charges in conformity with the requirements of such provisions and such order of the Board shall be a condition to the continuation of the affected service by such air carrier or foreign air carrier.

(5) In exercising and performing its powers and duties under this subsection with respect to the rejection or cancellation of rates for the carriage of persons or property, the Board shall take into consideration, among other factors—

(A) the effect of such rates upon the movement of traffic;

(B) the need in the public interest of adequate and efficient transportation of persons and property by air carriers and foreign air carriers at the lowest cost consistent with the furnishing of such service;

(C) such standards respecting the character and quality of service to be rendered by air carriers and foreign air carriers as may be prescribed by or pursuant to law;

(D) the inherent advantages of transportation by aircraft;

(E) the need of such air carrier and foreign air carrier for revenue sufficient to enable such air carrier and foreign air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier and foreign air carrier service;

(F) whether such rates will be predatory or tend to monopolize competition among air carriers and foreign air carriers in foreign air transportation; and

(G) reasonably estimated or foreseeable future costs and revenues for such air carrier or foreign air carrier for a reasonably limited future period during which the rate at issue would be in effect.

(6) The Board shall not have authority to find any fare for foreign air transportation of persons to be unjust or unreasonable on the basis that such fare is too low or too high if—

(A) with respect to any proposed increase filed with the Board on or after the date of enactment of this paragraph, and before the 180th day after such date of enactment, such proposed fare would not be more than the standard foreign fare level for the same or essentially similar class of service. No such fare shall be suspended, unless the Board determines that it may be unduly preferential, unduly prejudicial, or unjustly discriminatory or that suspension is in the public interest because of unreasonable regulatory actions by a foreign government with respect to fare proposals of an air carrier; or

(B) with respect to any proposed increase filed with the Board after the 180th day after the date of enactment of this paragraph such proposed fare would not be more than 5 percent higher than the standard foreign fare level for the same or essentially similar class of service. No such fare shall be suspended, unless the Board determines that it may be unduly preferential, unduly prejudicial, or unjustly discriminatory or that suspension is in the public interest because of unreasonable regulatory actions by a foreign government with respect to fare proposals of an air carrier; or

(C) with respect to any proposed decrease filed after the date of enactment of this paragraph, the fare would not be more than 50 percent lower than the standard foreign fare level for the same or essentially similar class of service, except that this provision shall not apply to any proposed decrease in any fare if the Board determines that such proposed fare may be predatory or discriminatory or that suspension of any such fare is required because of unreasonable regulatory actions by a foreign government with respect to fare proposals by an air carrier.

(7) For purposes of this subsection, "standard foreign fare level" means that fare level (as adjusted only in accordance with paragraph (9) of this subsection) filed for and permitted by the Civil Aeronautics Board to go into effect on or after October 1, 1979 and before the 180th day after the date of enactment of this paragraph (with seasonal fares adjusted by the percentage difference that prevailed between seasons in 1978), or the fare level established under paragraph (8), for each pair of points, for each class of fare existing on that date, and in effect on the effective date of the establishment of each additional class of fare established after October 1, 1979.

(8)(A) The Board is authorized, on the basis of oral evidentiary hearings before an administrative law judge, to determine that a fare between two points on October 1, 1979 is unjust or unreasonable. Such oral evidentiary hearing shall be completed within 180 days of enactment of this section, and the Board may establish such deadlines including the deadline for the judge's decision as the Board may deem necessary to meet such requirement. If the Board determines that such a fare is unjust or unreasonable, the Board shall, on the basis of such hearing record, establish the standard foreign fare level between such points.

(B) Standard foreign fare levels shall not be established under this paragraph for points between which the passengers carried by United States carriers in foreign air transportation are, in the aggregate, more than 25 percent of the total passengers carried by United States air carriers in foreign air transportation during the most recent 12-month period for which data is available.

(C) The establishment of a standard foreign fare level under this paragraph does not permit a reduction in fares.

(D) No standard foreign fare level established under this paragraph shall take effect on or before the 180th day after the date of enactment of this paragraph.

(E) The authority given the Board by subparagraph (A) of this paragraph shall expire on the 180th day after the date of enactment of this paragraph.

(9) The Board shall, within 30 days after the date of enactment of this paragraph, and not less often than every 60 days thereafter with respect to fuel costs and not less often than every 180 days with respect to all other costs adjust each standard foreign fare level for the particular foreign air transportation to which such standard foreign fare level applies by increasing or decreasing such standard foreign fare level, as the case may be, by the percentage change from the last previous period in the actual operating cost per available seatmile. In determining the standard foreign fare level, the Board shall make no adjustment to costs actually incurred. In establishing standard foreign fare levels and making the adjustments called for in this paragraph, the Board may use all relevant or appropriate information reasonably available to it.

(10) The Board may by rule increase the percentage specified in paragraph (6)(C) of this subsection.

DEFINITIONS

(k)(1) For purposes of this section, the term "interstate air transportation of property" means—

(A) the carriage by aircraft of property as a common carrier for compensation or hire in commerce between a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia (other than the carriage by aircraft of property by a common carrier between any pair of points both of which are within the State of Alaska or Hawaii if such carriage is part of the continuous carriage of such property and another common carrier provides, as part of such continuous carriage, the carriage by aircraft of such property between any pair of points one of which is within the State of Alaska or Hawaii and the other of which is not within the same State); or between places in the same State of the United States (other than the State of Alaska or Hawaii) through the airspace over any place outside thereof; or between places in the same territory or possession of the United States, or the District of Columbia;

(B) the carriage by aircraft of property as a common carrier for compensation or hire, in commerce between a place in any State of the United States or the District of Columbia and any place in the Commonwealth of Puerto Rico or the Virgin Islands or between a place in the Commonwealth of Puerto Rico and a place in the Virgin Islands;
whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

(2) For purposes of this section, the term "oversea air transportation" means—

(A) the carriage by aircraft of persons as a common carrier for compensation or hire in commerce between a place in any State of the United States, or the District of Columbia, and any place in a territory or possession of the United States; or between a place in a territory or possession of the United States,

and a place in any other territory or possession of the United States;

(B) the carriage by aircraft of property as a common carrier for compensation or hire in commerce between a place in any State of the United States, or the District of Columbia, and any place in a territory or possession of the United States (other than the Commonwealth of Puerto Rico and the Virgin Islands); or between a place in a territory or possession of the United States (other than the Commonwealth of Puerto Rico and the Virgin Islands), and a place in any other territory or possession of the United States (other than the Commonwealth of Puerto Rico and the Virgin Islands);

whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

(3) For purposes of this section, the term "air transportation of property within the State of Alaska" means the carriage by aircraft of property (A) by a common carrier for compensation or hire in commerce between any pair of points both of which are within the State of Alaska if such carriage is part of the continuous carriage of such property and another common carrier provides, as part of such continuous carriage, the carriage by aircraft of such property between any pair of points one of which is within the State of Alaska and the other of which is not within such State, or (B) by a common carrier for compensation or hire in commerce between places in the State of Alaska through the airspace over any place outside thereof, whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

(4) For purposes of this section, the term "air transportation of property within the State of Hawaii" means the carriage by aircraft of property (A) by a common carrier for compensation or hire in commerce between any pair of points both of which are within the State of Hawaii if such carriage is part of the continuous carriage of such property and another common carrier provides, as part of such continuous carriage, the carriage by aircraft of such property between any pair of points one of which is within the State of Hawaii and the other of which is not within such State, or (B) by a common carrier for compensation or hire in commerce between places in the State of Hawaii through the airspace over any place outside thereof, whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation. [49 U.S.C. App. 1482]

JOINT BOARDS

DESIGNATION OF BOARDS

SEC. 1003. (a) The Board and the Interstate Commerce Commission shall direct their respective chairmen to designate, from time to time, a like number of members of each to act as a joint board to consider and pass upon matters referred to such board as provided in subsection (c) of this section.

THROUGH SERVICE AND JOINT RATES

(b) Air carriers may establish reasonable through service and joint rates, fares, and charges with other common carriers; except that with respect to transportation of property, air carriers not directly engaged in the operation of aircraft in air transportation (other than companies engaged in the air express business) may not establish joint rates or charges, under the provisions of this subsection, with common carriers subject to the Interstate Commerce Act.¹ In case of through service by air carriers and common carriers subject to the Interstate Commerce Act, it shall be the duty of the carriers parties thereto to establish just and reasonable rates, fares, or charges and just and reasonable classification, rules, regulations, and practices affecting such rates, fares, or charges, or the value of the service thereunder, and if joint rates, fares, or charges shall have been established with respect to such through service, just, reasonable, and equitable divisions of such joint rates, fares, or charges as between the carriers participating therein. Any air carrier, and any common carrier subject to the Interstate Commerce Act, which is participating in such through service and joint rates, fares, or charges, shall include in its tariffs, filed with the Civil Aeronautics Board or the Interstate Commerce Commission, as the case may be, a statement showing such through service and joint rates, fares, or charges.

JURISDICTION OF BOARDS

(c) Matters relating to such through service and joint rates, fares, or charges may be referred by the Board or the Interstate Commerce Commission, upon complaint or upon its own initiative, to a joint board created as provided in subsection (a). Complaints may be made to the Interstate Commerce Commission or the Board with respect to any matter which may be referred to a joint board under this subsection.

POWER OF BOARDS

(d) With respect to matters referred to any joint board as provided in subsection (c), if such board finds, after notice and hearing, that any such joint rate, fare, or charge, or classification, rule, regulation, or practice, affecting such joint rate, fare, or charge or the value of the service thereunder is or will be unjust, unreasonable, unjustly discriminatory, or unduly preferential or prejudicial, or that any division of any such joint rate, fare, or charge, is or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the carriers parties thereto, it is authorized and directed to take the same action with respect thereto as the Board is empowered to take with respect to any joint rate, fare, or charge, between air carriers, or any divisions thereof, or any classification, rule, regulation, or practice affecting such joint rate, fare, or charge or the value of the service thereunder.

¹ Now subtitle IV of title 49, United States Code. Public Law 95-473, § 3(b), 92 Stat. 1466.

JUDICIAL ENFORCEMENT AND REVIEW

(e) Orders of the joint boards shall be enforceable and reviewable as provided in this Act with respect to orders of the Board. [49 U.S.C. App. 1483]

EVIDENCE

POWER TO TAKE EVIDENCE

SEC. 1004. (a) Any member or examiner of the Board, when duly designated by the Board for such purpose, may hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in the United States designated by the Board. In all cases heard by an examiner or a single member the Board shall hear or receive argument on request of either party.

POWER TO ISSUE SUBPENA

(b) For the purposes of this Act the Board shall have the power to require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under investigation. Witnesses summoned before the Board shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

ENFORCEMENT OF SUBPENA

(c) The attendance of witnesses, and the production of books, papers, and documents, may be required from any place in the United States, at any designated place of hearing. In case of disobedience to a subpoena, the Board, or any party to a proceeding before the Board, may invoke the aid of any court of the United States in requiring attendance and testimony of witnesses and the production of such books, papers, and documents under the provisions of this section.

CONTEMPT

(d) Any court of the United States within the jurisdiction of which an inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring such person to appear before the Board (and produce books, papers, or documents if so ordered) and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

DEPOSITION

(e) The Board may order testimony to be taken by deposition in any proceeding or investigation pending before it, at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Board and having power to administer oaths. Reasonable notice must first be given in writing by the party or his attorney proposing to take such deposition to the opposite party or his attorney of record, which notice shall state the name of the witness and the time and place of the taking of his

deposition. Any person may be compelled to appear and depose, and to produce books, papers, or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Board, as hereinbefore provided.

METHOD OF TAKING DEPOSITIONS

(f) Every person deposing as herein provided shall be cautioned and shall be required to swear (or affirm, if he so requests) to testify the whole truth, and shall be carefully examined. His testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent. All depositions shall be promptly filed with the Board.

FOREIGN DEPOSITIONS

(g) If a witness whose testimony may be desired to be taken by deposition be in a foreign country, the deposition may be taken, provided the laws of the foreign country so permit, by a consular officer or other person commissioned by the Board, or agreed upon by the parties by stipulation in writing to be filed with the Board, or may be taken under letters rogatory issued by a court of competent jurisdiction at the request of the Board.

FEES

(h) Witnesses whose depositions are taken as authorized in this Act, and the persons taking the same, shall severally be entitled to the same fees as are paid for like services in the courts of the United States: *Provided*, That with respect to commissions or letters rogatory issued at the initiative of the Board, executed in foreign countries, the Board shall pay such fees, charges, or expenses incidental thereto as may be found necessary, in accordance with regulations on the subject to be prescribed by the Board. [49 U.S.C. App. 1484]

ORDERS, NOTICES, AND SERVICE

EFFECTIVE DATE OF ORDERS; EMERGENCY ORDERS

SEC. 1005. (a) Except as otherwise provided in this Act, all orders, rules, and regulations of the Board or the Administrator shall take effect within such reasonable time as the Board or Administrator may prescribe, and shall continue in force until their further order, rule, or regulation, or for a specified period of time, as shall be prescribed in the order, rule, or regulation: *Provided*, That whenever the Administrator is of the opinion that an emergency requiring immediate action exists in respect of safety in air commerce, the Administrator is authorized, either upon complaint or his own initiative without complaint, at once, if he so orders, without answer or other form of pleading by the interested person or persons, and with or without notice, hearing, or the making or filing of a report, to make such just and reasonable orders, rules, or regulations, as may be essential in the interest of safety in air commerce to meet such emergency: *Provided further*, That the Administrator shall

immediately initiate proceedings relating to the matters embraced in any such order, rule, or regulation, and shall, insofar as practicable, give preference to such proceedings over all others under this Act.

DESIGNATION OF AGENT FOR SERVICE

(b) It shall be the duty of every air carrier and foreign air carrier to designate in writing an agent upon whom service of all notices and process and all orders, decisions, and requirements of the Board and the Administrator may be made for and on behalf of said carrier, and to file such designation with the Administrator and in the office of the secretary of the Board, which designation may from time to time be changed by like writing similarly filed. Service of all notices and process and orders, decisions, and requirements of the Administrator or the Board may be made upon such carrier by service upon such designated agent at his office or usual place of residence with like effect as if made personally upon such carrier, and in default of such designation of such agent, service of any notice or other process in any proceedings before said Administrator or Board or of any order, decision, or requirements of the Administrator or Board, may be made by posting such notice, process, order, requirement, or decision in the office of the Administrator or with the secretary of the Board.

OTHER METHODS OF SERVICE

(c) Service of notices, processes, orders, rules, and regulations upon any person may be made by personal service, or upon an agent designated in writing for the purpose, or by registered or certified mail addressed to such person or agent. Whenever service is made by registered or certified mail, the date of mailing shall be considered as the time when service is made.

SUSPENSION OR MODIFICATION OF ORDER

(d) Except as otherwise provided in this Act, the Administrator or the Board is empowered to suspend or modify their orders upon such notice and in such manner as they shall deem proper.

COMPLIANCE WITH ORDER REQUIRED

(e) It shall be the duty of every person subject to this Act, and its agents and employees, to observe and comply with any order, rule, regulation, or certificate issued by the Administrator or the Board under this Act affecting such person so long as the same shall remain in effect.

FORM AND SERVICE OF ORDERS

(f) Every order of the Administrator or the Board shall set forth the findings of fact upon which it is based, and shall be served upon the parties to the proceeding and the persons affected by such order. [49 U.S.C. App. 1485]

JUDICIAL REVIEW OF ORDERS

ORDERS OF BOARD AND ADMINISTRATOR SUBJECT TO REVIEW

SEC. 1006. (a) Any order, affirmative or negative, issued by the Board or Administrator under this Act, except any order in respect of any foreign air carrier subject to the approval of the President as provided in section 801 of this Act, shall be subject to review by the courts of appeals of the United States or the United States Court of Appeals for the District of Columbia upon petition, filed within sixty days after the entry of such order, by any person disclosing a substantial interest in such order. After the expiration of said sixty days a petition may be filed only by leave of court upon a showing of reasonable grounds for failure to file the petition theretofore.

VENUE

(b) A petition under this section shall be filed in the court for the circuit wherein the petitioner resides or has his principal place of business or in the United States Court of Appeals for the District of Columbia.

[NOTICE TO BOARD OR ADMINISTRATOR; FILING OF TRANSCRIPT] ¹

(c) A copy of the petition shall, upon filing, be forthwith transmitted to the Board or Administrator by the clerk of the court, and the Board or Administrator shall thereupon file in the court the record, if any, upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.

[POWER OF COURT] ²

(d) Upon transmittal of the petition to the Board or Administrator, the court shall have exclusive jurisdiction to affirm, modify, or set aside the order complained of, in whole or in part, and if need be, to order further proceedings by the Board or Administrator. Upon good cause shown and after reasonable notice to the Board or Administrator, interlocutory relief may be granted by stay of the order or by such mandatory or other relief as may be appropriate.

FINDINGS OF FACT CONCLUSIVE

(e) The findings of facts by the Board or Administrator, if supported by substantial evidence, shall be conclusive. No objection to an order of the Board or Administrator shall be considered by the court unless such objection shall have been urged before the Board or Administrator or, if it was not so urged, unless there were reasonable grounds for failure to do so.

CERTIFICATION OR CERTIORARI

(f) The judgment and decree of the court affirming, modifying, or setting aside any such order of the Board or Administrator shall be

¹ Subsection heading not reinserted by amendment of subsection. Public Law 86-546, § 1.

² Subsection heading not reinserted by amendment of subsection. Public Law 87-225, § 2.

subject only to review by the Supreme Court of the United States upon certification or certiorari as provided in section 1254 of title 28, United States Code. [49 U.S.C. App. 1486]

JUDICIAL ENFORCEMENT

JURISDICTION OF COURT

SEC. 1007. (a) If any person violates any provision of this Act, or any rule, regulation, requirement, or order thereunder, or any term, condition, or limitation of any certificate or permit issued under this Act, the Board or Administrator, as the case may be, their duly authorized agents, or, in the case of a violation of section 1114 of this Act, the Attorney General, or, in the case of a violation of section 401(a) of this Act, any party in interest, may apply to the district court of the United States, for any district wherein such person carries on his business or wherein the violation occurred, for the enforcement of such provision of this Act, or of such rule, regulation, requirement, order, term, condition or limitation; and such court shall have jurisdiction to enforce obedience thereto by a writ of injunction or other process, mandatory or otherwise, restraining such person, his officers, agents, employees, and representatives, from further violation of such provision of this Act or of such rule, regulation, requirement, order, term, condition, or limitation, and requiring their obedience thereto.

APPLICATION FOR ENFORCEMENT

(b) Upon the request of the Board or Administrator, any district attorney of the United States to whom the Board or Administrator may apply is authorized to institute in the proper court and to prosecute under the direction of the Attorney General all necessary proceedings for the enforcement of the provisions of this Act or any rule, regulation, requirement, or order thereunder, or any term, condition, or limitation of any certificate or permit, and for the punishment of all violations thereof, and the costs and expenses of such prosecutions shall be paid out of the appropriations for the expenses of the courts of the United States. [49 U.S.C. App. 1487]

PARTICIPATION IN COURT PROCEEDINGS

SEC. 1008. Upon request of the Attorney General, the Board or Administrator, as the case may be, shall have the right to participate in any proceeding in court under the provisions of this Act. [49 U.S.C. App. 1488]

JOINDER OF PARTIES

SEC. 1009. In any proceeding for the enforcement of the provisions of this Act, or any rule, regulation, requirement, or order thereunder, or any term, condition, or limitation of any certificate or permit, whether such proceedings be instituted before the Board or be begun originally in any court of the United States, it shall be lawful to include as parties, or to permit the intervention of, all persons interested in or affected by the matter under consideration;

and inquiries, investigations, orders, and decrees may be made with reference to all such parties in the same manner, to the same extent, and subject to the same provisions of law as they may be made with respect to the persons primarily concerned. [49 U.S.C. App. 1489]

TIME REQUIREMENTS ¹

SEC. 1010. In the case of any application or other written document submitted to the Board under section 408, 409, 412, or 416 of this Act on or after the one-hundred-eightieth day after the date of enactment of this section, the Board shall—

(1) if the Board orders an evidentiary hearing, issue a final order or decision with respect to such written document, not later than the last day of the twelfth month which begins after the submission of such document, except in the case of an application submitted under section 408 of this Act, the Board shall issue its final order or decision not later than the last day of the sixth month after submission; or

(2) if the Board does not order an evidentiary hearing, issue a final order or decision with respect to such document, not later than the last day of the sixth month which begins after the date of the submission of such document. [49 U.S.C. App. 1490]

TITLE XI—MISCELLANEOUS

SEC. 1101. HAZARDS TO SAFE AND EFFICIENT AIR COMMERCE AND THE PRESERVATION OF NAVIGABLE AIRSPACE AND AIRPORT TRAFFIC CAPACITY.

(a) NOTICE OF CONSTRUCTION.—The Secretary of Transportation (hereinafter in this section referred to as the “Secretary”) shall, by rules and regulations, or by order where necessary, require all persons to give adequate public notice, in the form and manner prescribed by the Secretary, of the construction or alternation, or of the proposed construction or alteration, of any structure where notice will promote safety in air commerce as well as the efficient use and preservation of the navigable airspace and of airport traffic capacity at public-use airports.

(b) AERONAUTICAL STUDIES.—

(1) REQUIREMENT.—Where the Secretary determines, according to rules and regulations, that the construction or alteration of any structure may constitute an obstruction of navigable airspace or an interference with air navigation facilities and equipment or navigable airspace, the Secretary shall conduct an aeronautical study to determine the extent of the adverse impact, if any, on the safe and efficient use of such airspace, facilities, or equipment.

(2) FACTORS TO CONSIDER.—When conducting an aeronautical study under this subsection to determine the impact of the construction or alteration of a structure, the Secretary shall thoroughly consider, according to rules and regulations, all factors

¹ So in original. See section 38(a) of Public Law 95-504.

relevant to the efficient and effective use of the navigable airspace, and shall consider the following:

(A) The impact on arrival, departure, and en route procedures for aircraft operating under visual flight rules.

(B) The impact on arrival, departure, and en route procedures for aircraft operating under instrument flight rules.

(C) The impact on all existing public-use airports and aeronautical facilities.

(D) The impact on all planned public-use airports and aeronautical facilities.

(E) The cumulative impact resulting from the proposed construction or alteration of a structure when combined with the impact of other existing or proposed structures.

(3) REPORT.—Upon completion of an aeronautical study under this subsection, the Secretary shall issue a report fully disclosing the extent of the adverse impact on the safe and efficient use of the navigable airspace which the Secretary determines will result from the construction or alteration of a structure.

(c) COORDINATION.—In the administration of laws relating to broadcast applications and the conduct of aeronautical studies relating to broadcast towers, the Federal Communications Commission and the Federal Aviation Administration shall take such action as may be necessary to efficiently coordinate the receipt, consideration of, and action upon such applications and the completion of associated aeronautical studies. [49 U.S.C. App. 1501]

INTERNATIONAL AGREEMENTS

ACTIONS OF THE BOARD AND OF THE SECRETARY OF TRANSPORTATION

SEC. 1102. (a) In exercising and performing their powers and duties under this Act, the Board and the Administrator shall do so consistently with any obligation assumed by the United States in any treaty, convention, or agreement that may be in force between the United States and any foreign country or foreign countries, and shall take into consideration any applicable laws and requirements of foreign countries and the Board shall not, in exercising and performing its powers and duties with respect to certificates of convenience and necessity, restrict compliance by any air carrier with any obligation, duty, or liability imposed by any foreign country: *Provided*, That this section shall not apply to any obligation, duty, or liability arising out of a contract or other agreement, heretofore or hereafter entered into between an air carrier, or any officer or representative thereof, and any foreign country, if such contract or agreement is disapproved by the Board as being contrary to the public interest.

GOALS FOR INTERNATIONAL AVIATION POLICY

(b) In formulating United States international air transportation policy, the Congress intends that the Secretary of State, the Secretary of Transportation, and the Civil Aeronautics Board shall develop a negotiating policy which emphasizes the greatest degree of

competition that is compatible with a well-functioning international air transportation system. This includes, among other things:

(1) the strengthening of the competitive position of United States air carriers to at least assure equality with foreign air carriers, including the attainment of opportunities for United States air carriers to maintain and increase their profitability, in foreign air transportation;

(2) freedom of air carriers and foreign air carriers to offer fares and rates which correspond with consumer demand;

(3) the fewest possible restrictions on charter air transportation;

(4) the maximum degree of multiple and permissive international authority for United States air carriers so that they will be able to respond quickly to shifts in market demand;

(5) the elimination of operational and marketing restrictions to the greatest extent possible;

(6) the integration of domestic and international air transportation;

(7) an increase in the number of nonstop United States gateway cities;

(8) opportunities for carriers of foreign countries to increase their access to United States points if exchanged for benefits of similar magnitude for United States carriers or the traveling public with permanent linkage between rights granted and rights given away;

(9) the elimination of discrimination and unfair competitive practices faced by United States airlines in foreign air transportation, including excessive landing and user fees, unreasonable ground handling requirements, undue restrictions on operations, prohibitions against change of gauge, and similar restrictive practices; and

(10) the promotion, encouragement, and development of civil aeronautics and a viable, privately owned United States air transport industry.

CONSULTATION WITH AFFECTED GROUPS

(c) To assist in developing and implementing such an international aviation negotiating policy, the Secretaries of State and Transportation and the Civil Aeronautics Board shall consult, to the maximum extent practicable, with the Secretary of Commerce, the Secretary of Defense, airport operators, scheduled air carriers, charter air carriers, airline labor, consumer interest groups, travel agents and tour organizers, and other groups, institutions, and government agencies affected by international aviation policy concerning both broad policy goals and individual negotiations.

OBSERVER STATUS FOR CONGRESSIONAL REPRESENTATIVES

(d) The President shall grant to at least one representative of each House of Congress the privilege to attend international aviation negotiations as an observer if such privilege is requested in advance in writing. [49 U.S.C. App. 1502]

NATURE AND USE OF DOCUMENTS FILED

SEC. 1103. The copies of tariffs and of all contracts, agreements, understandings, and arrangements filed with the Board as herein provided, and the statistics, tables, and figures contained in the annual or other reports of air carriers and other persons made to the Board as required under the provisions of this Act shall be preserved as public records (except as otherwise provided in this Act) in the custody of the secretary of the Board, and shall be received as prima facie evidence of what they purport to be for the purpose of investigations by the Board and in all judicial proceedings; and copies of, and extracts from, any of such tariffs, contracts, agreements, understandings, arrangements, or reports, certified by the secretary of the Board, under the seal of the Board, shall be received in evidence with like effect as the originals. [49 U.S.C. App. 1503]

WITHHOLDING OF INFORMATION

SEC. 1104. Any person may make written objection to the public disclosure of information contained in any application, report, or document filed pursuant to provisions of this Act or of any information obtained by the Board, the Secretary of State, or the Secretary of Transportation pursuant to the provisions of this Act stating the grounds for such objection. Any information contained in such application, report, or document, or any such other information obtained by the Board, the Secretary of State, or the Secretary of Transportation, shall be withheld from public disclosure by the Board, the Secretary of State, or the Secretary of Transportation, as the case may be, if disclosure of such information would prejudice the formulation and presentation of positions of the United States in international negotiations or adversely affect the competitive position of any air carrier in foreign air transportation. The Board, the Secretary of State, or the Secretary of Transportation, as the case may be, shall be responsible for classified information in accordance with appropriate law, except that nothing in this section shall authorize the withholding of information by the Board, the Secretary of State, or the Secretary of Transportation from the duly authorized committees of Congress. [49 U.S.C. App. 1504]

COOPERATION WITH GOVERNMENT AGENCIES

SEC. 1105. The Board and the Administrator may avail themselves of the assistance of the National Aeronautics and Space Administration and any research or technical agency of the United States on matters relating to aircraft fuel and oil and to the design, materials, workmanship, construction, performance, maintenance, and operation of aircraft, aircraft engines, propellers, appliances, and air navigation facilities. The Board may avail itself of the assistance of the Federal Bureau of Investigation and of any investigatory or intelligence agency of the United States in the investigation of the activities of any person in connection with an aircraft accident. The Board may avail itself of the assistance of any medical agency of the United States in the conduct of such autopsies or

tests on the remains of deceased persons aboard the aircraft at the time of the accident, who die as a result of the accident, as may be necessary to aid the Board in the investigation of an aircraft accident. Each such agency is authorized to conduct such scientific and technical researches, investigations, and tests as may be necessary to aid the Board and Administrator in the exercise and performance of their powers and duties. Nothing contained in this Act shall be construed to authorize the duplication of the laboratory research activities of any existing governmental agency. [49 U.S.C. App. 1505]

REMEDIES NOT EXCLUSIVE

SEC. 1106. Nothing contained in this Act shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this Act are in addition to such remedies. [49 U.S.C. App. 1506]

PUBLIC USE OF FACILITIES

SEC. 1107. (a) Air navigation facilities owned or operated by the United States may be made available for public use under such conditions and to such extent as the head of the department or other agency having jurisdiction thereof deems advisable and may by regulation prescribe.

(b) The head of any Government department or other agency having jurisdiction over any airport or emergency landing field owned or operated by the United States may provide for the sale to any aircraft of fuel, oil, equipment, and supplies, and the furnishing to it of mechanical service, temporary shelter, and other assistance under such regulations as the head of the department or agency may prescribe, but only if such action is by reason of an emergency necessary to the continuance of such aircraft on its course to the nearest airport operated by private enterprise. All such articles shall be sold and such assistance furnished at the fair market value prevailing locally as ascertained by the head of such department or agency. All amounts received under this subsection shall be covered into the Treasury; but that part of such amounts which, in the judgment of the head of the department or agency, is equivalent to the cost of the fuel, oil, equipment, supplies, services, shelter, or other assistance so sold or furnished shall be credited to the appropriation from which such cost was paid, and the balance, if any, shall be credited to miscellaneous receipts. [49 U.S.C. App. 1507]

FOREIGN AIRCRAFT

SEC. 1108. (a) The United States of America is hereby declared to possess and exercise complete and exclusive national sovereignty in the airspace of the United States, including the airspace above all inland waters and the airspace above those portions of the adjacent marginal high seas, bays, and lakes, over which by international law or treaty or convention the United States exercises national jurisdiction. Aircraft of the armed forces of any foreign nation shall not be navigated in the United States, including the Canal Zone,

except in accordance with an authorization granted by the Secretary of State.

(b) Foreign aircraft, which are not a part of the armed forces of a foreign nation, may be navigated in the United States by airmen holding certificates or licenses issued or rendered valid by the United States or by the nation in which the aircraft is registered if such foreign nation grants a similar privilege with respect to aircraft of the United States and only if such navigation is authorized by permit, order, or regulation issued by the Board hereunder, and in accordance with the terms, conditions, and limitations thereof. The Board shall issue such permits, orders, or regulations to such extent only as it shall find such action to be in the interest of the public: *Provided, however,* That in exercising its powers hereunder, the Board shall do so consistently with any treaty, convention, or agreement which may be in force between the United States and any foreign country or countries. Foreign civil aircraft permitted to navigate in the United States under this subsection may be authorized by the Board to engage in air commerce within the United States except that they shall not take on at any point within the United States, persons, property, or mail carried for compensation or hire and destined for another point within the United States, unless specifically authorized under section 416(b)(7) of this Act or under regulations prescribed by the Secretary authorizing United States air carriers to engage in otherwise authorized common carriage and carriage of mail with foreign registered aircraft under lease or charter to them without crew. Nothing contained in this subsection (b) shall be deemed to limit, modify, or amend section 402 of this Act, but any foreign air carrier holding a permit under said section 402 shall not be required to obtain additional authorization under this subsection with respect to any operation authorized by said permit. [49 U.S.C. App. 1508]

APPLICATION OF EXISTING LAWS RELATING TO FOREIGN COMMERCE

SEC. 1109. (a) Except as specifically provided in the Act entitled "An Act to authorize the President to proclaim regulations for preventing collisions at sea", approved October 11, 1951 (Public Law 172, Eighty-second Congress; 65 Stat. 406), the navigation and shipping laws of the United States, including any definition of "vessel" or "vehicle" found therein and including the rules for the prevention of collisions, shall not be construed to apply to seaplanes or other aircraft or to the navigation of vessels in relation to seaplanes or other aircraft.

(b) The Secretary of the Treasury is authorized to (1) designate places in the United States as ports of entry for civil aircraft arriving in the United States from any place outside thereof and for merchandise carried on such aircraft, (2) detail to ports of entry for civil aircraft such officers and employees of the customs service as he may deem necessary, and to confer or impose upon any officer or employee of the United States stationed at any such port of entry (with the consent of the head of the Government department or other agency under whose jurisdiction the officer or employee is serving) any of the powers, privileges, or duties conferred or imposed upon officers or employees of the customs service, and (3) by

regulation to provide for the application to civil air navigation of the laws and regulations relating to the administration of the customs laws to such extent and upon such conditions as he deems necessary.

(c) The Secretary of the Treasury is authorized by regulation to provide for the application to civil aircraft of the laws and regulations relating to the entry and clearance of vessels to such extent and upon such conditions as he deems necessary.

(d) The Secretary of Agriculture is authorized by regulation to provide for the application to civil air navigation of the laws and regulations related to animal and plant quarantine, including the importation, exportation, transportation, and quarantine of animals, plants, animal and plant products, insects, bacterial and fungus cultures, viruses, and serums, to such extent and upon such conditions as he deems necessary.

(e) There are authorized to be appropriated such sums as may be necessary to enable the head of any department or agency of the Federal Government charged with any duty of inspection, clearance, collection of taxes or duties, or other similar function, with respect to persons or property moving in air commerce, to acquire such space at public airports (as defined in the Airport and Airway Improvement Act of 1982) as he determines, after consultation with the Administrator of the Federal Aviation Agency, to be necessary for the performance of such duty. In acquiring any such space, the head of such department or agency shall act through the Administrator of General Services in accordance with the procedures established by law which are generally applicable to the acquisition of space to be used by departments and agencies of the Federal Government.

REPORTING TRANSFER OF OWNERSHIP ¹

(f) Any person having an ownership interest in any aircraft for which a certificate of registration has been issued under this Act shall, upon the sale, conditional sale, transfer, or conveyance of such ownership interest, file with the Secretary of the Treasury within 15 days after such sale, conditional sale, transfer or conveyance such notice as the Secretary of the Treasury may by regulation require. The filing of a notice under this subsection shall not relieve any person from the filing requirements under section 501 or 503 of this Act. [49 U.S.C. App. 1509]

GEOGRAPHICAL EXTENSION OF JURISDICTION

SEC. 1110. Whenever the President determines that such action would be in the national interest, he may, to the extent, in the manner, and for such periods of time as he may consider necessary, extend the application of this Act to any areas of land or water outside of the United States and the overlying airspace thereof in which the Federal Government of the United States, under international treaty, agreement or other lawful arrangement has the necessary legal authority to take such action. [49 U.S.C. App. 1510]

¹ So in law. No other subsection has a heading.

AUTHORITY TO REFUSE TRANSPORTATION

SEC. 1111. (a) The Administrator shall, by regulation, require any air carrier, intrastate air carrier, or foreign air carrier to refuse to transport—

(1) any person who does not consent to a search of his person, as prescribed in section 315(a) of this Act, to determine whether he is unlawfully carrying a dangerous weapon, explosive, or other destructive substance, or

(2) any property of any person who does not consent to a search or inspection of such property to determine whether it unlawfully contains a dangerous weapon, explosive, or other destructive substance.

Subject to reasonable rules and regulations prescribed by the Administrator, any such carrier may also refuse transportation of a passenger or property when, in the opinion of the carrier, such transportation would or might be inimical to safety of flight.

(b) Any agreement for the carriage of persons or property in air transportation or intrastate air transportation by an air carrier, intrastate air carrier, or foreign air carrier for compensation or hire shall be deemed to include an agreement that such carriage shall be refused when consent to search such persons or inspect such property for the purposes enumerated in subsection (a) of this section is not given. [49 U.S.C. App. 1511]

STATE OR SUBDIVISION INCOME TAX ON COMPENSATION PAID TO
INTERSTATE AIR CARRIER EMPLOYEES

SEC. 1112. (a) No part of the compensation paid by an air carrier to an employee who performs his regularly assigned duties as such an employee on an aircraft in more than one State, shall be subject to the income tax laws of any State or subdivision thereof other than the State or subdivision thereof of such employee's residence and the State or subdivision thereof in which such employee earns more than 50 per centum of the compensation paid by the carrier to such employee.

(b) For the purposes of subsection (a), an employee shall be deemed to have earned 50 per centum of his compensation in any State or subdivision in which his scheduled flight time in such State or subdivision is more than 50 per centum of his total scheduled flight time in the calendar year while so employed.

(c) For the purposes of this section the term "State" also means the District of Columbia and any of the possessions of the United States; and the term "compensation" shall mean all moneys received for services rendered by the employee in the performance of his duties and shall include wages and salary. [49 U.S.C. App. 1512]

STATE TAXATION OF AIR COMMERCE

SEC. 1113. (a) No State (or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more States) shall levy or collect a tax, fee, head charge, or other charge, directly or indirectly, on persons traveling in air commerce or on the carriage of persons

traveling in air commerce or on the sale of air transportation or on the gross receipts derived therefrom; except that any State (or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more States) which levied a tax, fee, head charge, or other charge, directly or indirectly, on persons traveling in air commerce or on the carriage of persons traveling in air commerce or on the sale of air transportation or on the gross receipts derived therefrom prior to May 21, 1970, shall be exempt from the provisions of this subsection until December 31, 1973.

(b) Except as provided in subsection (d) of this section, nothing in this section shall prohibit a State (or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more States) from the levy or collection of taxes other than those enumerated in subsection (a) of this section, including property taxes, net income taxes, franchise taxes, and sales or use taxes on the sale of goods or services; and nothing in this section shall prohibit a State (or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more States) owning or operating an airport from levying or collecting reasonable rental charges, landing fees, and other service charges from aircraft operators for the use of airport facilities.

(c) In the case of any airport operating authority which—

(1) has an outstanding obligation to repay a loan or loans of amounts borrowed and expended for airport improvements;

(2) is collecting without air carrier assistance, a head tax on passengers in air transportation for the use of its facilities; and

(3) has no authority to collect any other type of tax to repay such loan or loans,

the provisions of subsection (a) shall not apply to such authority until December 31, 1973.

(d)(1) The following acts unreasonably burden and discriminate against interstate commerce and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

(A) assess air carrier transportation property at a value that has a higher ratio to the true market value of the air carrier transportation property than the ratio that the assessed value of other commercial and industrial property of the same type in the same assessment jurisdiction has to the true market value of the other commercial and industrial property;

(B) levy or collect a tax on an assessment that may not be made under subparagraph (A) of this paragraph; or

(C) levy or collect an ad valorem property tax on air carrier transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

(2) In this subsection—

(A) "assessment" means valuation for a property tax levied by a taxing district;

(B) "assessment jurisdiction" means a geographical area in a State used in determining the assessed value of property for ad valorem taxation;

(C) "air carrier transportation property" means property, as defined by the Civil Aeronautics Board, owned or used by an air carrier providing air transportation;

(D) "commercial and industrial property" means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use and subject to a property tax levy; and

(E) "State" shall include the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States, and political agencies of two or more States.

(3) This subsection shall not apply to any in lieu tax which is wholly utilized for airport and aeronautical purposes. [49 U.S.C. App. 1513]

SUSPENSION OF AIR SERVICES

SEC. 1114. (a) Whenever the President determines that a foreign nation is acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft, or if he determines that a foreign nation permits the use of territory under its jurisdiction as a base of operations or training or as a sanctuary for, or in any way arms, aids, or abets, any terrorist organization which knowingly uses the illegal seizure of aircraft or the threat thereof as an instrument of policy, he may, without notice or hearing and for as long as he determines necessary to assure the security of aircraft against unlawful seizure, suspend (1) the right of any air carrier or foreign air carrier to engage in foreign air transportation, and the right of any person to operate aircraft in foreign air commerce, to and from that foreign nation, and (2) the right of any foreign air carrier to engage in foreign air transportation, and the right of any foreign person to operate aircraft in foreign air commerce, between the United States and any foreign nation which maintains air service between itself and that foreign nation. Notwithstanding section 1102 of this Act, the President's authority to suspend rights under this section shall be deemed to be a condition to any certificate of public convenience and necessity or foreign air carrier or foreign aircraft permit issued by the Civil Aeronautics Board and any air carrier operating certificate or foreign air carrier operating specification issued by the Secretary of Transportation.

(b) It shall be unlawful for any air carrier or foreign air carrier to engage in foreign air transportation, or for any person to operate aircraft in foreign air commerce, in violation of the suspension of rights by the President under this section. [49 U.S.C. App. 1514]

SECURITY STANDARDS IN FOREIGN AIR TRANSPORTATION

ASSESSMENT OF SECURITY MEASURES

SEC. 1115. (a)(1) The Secretary of Transportation shall conduct at such intervals as the Secretary shall deem necessary an assessment of the effectiveness of the security measures maintained at those foreign airports being served by air carriers, those foreign airports from which foreign air carriers serve the United States, those foreign airports which pose a high risk of introducing danger to international air travel, and at such other foreign airports as the Secretary may deem appropriate.

(2) Each such assessment shall be made by the Secretary of Transportation in consultation with the appropriate aeronautic authorities of the foreign government concerned and each air carrier serving the foreign airport at which the Secretary is conducting such assessment.

(3) The assessment shall determine the extent to which an airport effectively maintains and administers security measures. In making an assessment of any airport under this subsection, the Secretary shall use a standard which will result in an analysis of the security measures at such airport based upon, at a minimum, the standards and appropriate recommended practices contained in Annex 17 to the Convention on International Civil Aviation, as those standards and recommended practices are in effect on the date of such assessment.

CONSULTATION WITH THE SECRETARY OF STATE

(b) In carrying out subsection (a), the Secretary of Transportation shall consult the Secretary of State with respect to the terrorist threat which exists in each country. The Secretary of Transportation shall also consult with the Secretary of State in order to determine which foreign airports are not under the de facto control of the government of the country in which they are located and pose a high risk of introducing danger to international air travel.

REPORT OF ASSESSMENTS

(c) Each report to the Congress required by section 315 of this Act shall contain a summary of the assessments conducted pursuant to subsection (a).

NOTIFICATION TO FOREIGN COUNTRY OF DETERMINATION

(d) Whenever, after an assessment in accordance with subsection (a), the Secretary of Transportation determines that an airport does not maintain and administer effective security measures, the Secretary (after advising the Secretary of State) shall notify the appropriate authorities of such foreign government of such determination, and recommend the steps necessary to bring the security measures in use at that airport up to the standard used by the Secretary in making such assessment.

NOTICE AND SANCTIONS

(e)(1) Paragraph (2) of this subsection shall become effective—

(A) 90 days after notification to the foreign government pursuant to subsection (d), if the Secretary of Transportation finds that the foreign government has failed to bring the security measures at the identified airport up to the standard used by the Secretary in making an assessment of such airport under subsection (a); or

(B) immediately upon the Secretary of Transportation's determination under subsection (d) if the Secretary of Transportation determines, after consultation with the Secretary of State, that a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from such airport.

The Secretary of Transportation shall immediately notify the Secretary of State of any determination made pursuant to subparagraph (B) so that the Secretary of State may comply with the requirement of section 552(a) of the International Security and Development Cooperation Act of 1985 that a travel advisory be issued.

(2) Subject to paragraph (1), if the Secretary of Transportation determines pursuant to this section that an airport does not maintain and administer effective security measures—

(A) the Secretary of Transportation—

(i) shall publish the identity of such airport in the Federal Register,

(ii) shall cause the identity of such airport to be posted and prominently displayed at all United States airports regularly being served by scheduled air carrier operations, and

(iii) shall notify the news media of the identity of such airport;

(B) each air carrier and foreign air carrier providing service between the United States and such airport shall provide notice of such determination by the Secretary to any passenger purchasing a ticket for transportation between the United States and such airport, with such notice to be made by written material included on or with such ticket;

(C) the Secretary of Transportation, after consultation with the appropriate aeronautical authorities of the foreign government concerned and each air carrier serving such airport, may, notwithstanding section 1102 of this Act and with the approval of the Secretary of State, withhold, revoke, or impose conditions on the operating authority of any air carrier or foreign air carrier to engage in foreign air transportation utilizing such airport; and

(D) the President may prohibit air carriers and foreign air carriers from providing service between the United States and any other foreign airport which is directly or indirectly served by aircraft flying to or from the airport with respect to which the determination is made under this section.

(3) The Secretary of Transportation shall promptly submit to the Congress a report (with a classified annex if necessary) on any action taken under this subsection, setting forth information concerning the attempts made to secure the cooperation of the foreign

government in meeting the standard used by the Secretary in making the assessment of the airport under subsection (a).

LIFTING OF SANCTIONS

(f)(1) The sanctions required to be imposed with respect to an airport pursuant to subsection (e)(2) (A) and (B) may be lifted only if the Secretary of Transportation, in consultation with the Secretary of State, has determined that effective security measures are maintained and administered at that airport.

(2) The Congress shall be notified if any sanction imposed pursuant to subsection (e) is lifted.

AUTHORITY FOR IMMEDIATE SUSPENSION OF AIR SERVICE

(g) Notwithstanding sections 1102 and 1114 of this Act, whenever the Secretary of Transportation determines that—

(1) a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from a foreign airport, and

(2) the public interest requires an immediate suspension of services between the United States and the identified airport, the Secretary of Transportation shall, without notice or hearing and with the approval of the Secretary of State, suspend the right of any air carrier or foreign air carrier to engage in foreign air transportation to or from that foreign airport and the right of any person to operate aircraft in foreign air commerce to or from that foreign airport.

CONDITIONS OF AUTHORITY

(h) The provisions of this section shall be deemed to be a condition to any authority granted under title IV or title VI of this Act to any air carrier or any foreign air carrier, issued under authority vested in the Secretary of Transportation. [49 U.S.C. App. 1515]

LIABILITY FOR CERTAIN PROPERTY

SEC. 1116. The Civil Aeronautics Board shall issue regulations or orders as may be necessary to require that any air carrier receiving for transportation as baggage any property of a person traveling in air transportation, which property cannot lawfully be carried by such person in the aircraft cabin by reason of any Federal law or regulation, shall assume liability to such person, at a reasonable charge and subject to reasonable terms and conditions, within the amount declared to the air carrier by such person, for the full actual loss or damage to such property caused by such air carrier. [49 U.S.C. App. 1516]

TRANSPORTATION OF GOVERNMENT-FINANCED PASSENGERS AND PROPERTY

TRANSPORTATION BETWEEN THE UNITED STATES AND A PLACE OUTSIDE THEREOF

SEC. 1117. (a) Except as provided in subsection (c) of this section, whenever any executive department or other agency or instrumen-

tality of the United States shall procure, contract for, or otherwise obtain for its own account or in furtherance of the purposes or pursuant to the terms of any contract, agreement, or other special arrangement made or entered into under which payment is made by the United States or payment is made from funds appropriated, owned, controlled, granted, or conditionally granted or utilized by or otherwise established for the account of the United States, or shall furnish to or for the account of any foreign nation, or any international agency, or other organization, of whatever nationality, without provisions for reimbursement, any transportation of persons (and their personal effects) or property by air between a place in the United States and a place outside thereof, the appropriate agency or agencies shall take such steps as may be necessary to assure that such transportation is provided by air carriers holding certificates under section 401 of this Act to the extent authorized by such certificates or by regulations or exemption of the Civil Aeronautics Board and to the extent service by such carriers is available.

TRANSPORTATION BETWEEN TWO PLACES OUTSIDE THE UNITED STATES

(b) Except as provided in subsection (c) of this section, whenever persons (and their personal effects) or property described in subsection (a) of this section are transported by air between two places both of which are outside the United States, the appropriate agency or agencies shall take such steps as may be necessary to assure that such transportation is provided by air carriers holding certificates under section 401 of this Act to the extent authorized by such certificates or by regulations or exemption of the Civil Aeronautics Board and to the extent service by such carriers is reasonably available.

TRANSPORTATION PURSUANT TO BILATERAL AGREEMENT

(c) Nothing in this section shall preclude the transportation of persons (and their personal effects) or property by foreign air carriers if such transportation is provided for under the terms of a bilateral or multilateral air transport agreement between the United States and a foreign government or governments and if such agreement (1) is consistent with the goals for international aviation policy set forth in section 1102(b) of this Act and (2) provides for the exchange of rights or benefits of similar magnitude.

DISALLOWANCE OF IMPROPER EXPENDITURE BY COMPTROLLER GENERAL

(d) The Comptroller General of the United States shall disallow any expenditure from appropriated funds for payment for personnel or cargo transportation in violation of this section in the absence of satisfactory proof of the necessity therefor. Nothing in this section shall prevent the application to such traffic of the antidiscrimination provisions of this Act. [49 U.S.C. App. 1517]

AERONAUTICAL CHARTS AND MAPS

SEC. 1118. Notwithstanding the provisions of section 1341 of title 31, United States Code, or any other provision of law, the United

States Government shall enter into agreements to indemnify any person who publishes a chart or map for use in aeronautics from any claim, or portion of a claim, which arises out of such person's depiction on such chart or map of any defective or deficient flight procedure or airway, if such flight procedure or airway was—

- (1) promulgated by the Federal Aviation Administration;
- (2) accurately depicted on such chart or map; and
- (3) not obviously defective or deficient. [49 U.S.C. App. 1518]

TITLE XII—SECURITY PROVISIONS

PURPOSE

SEC. 1201. The purpose of this title is to establish security provisions which will encourage and permit the maximum use of the navigable airspace by civil aircraft consistent with the national security. [49 U.S.C. App. 1521]

SECURITY CONTROL OF AIR TRAFFIC

SEC. 1202. In the exercise of his authority under section 307(a) of this Act, the Administrator, in consultation with the Department of Defense, shall establish such zones or areas in the airspace of the United States as he may find necessary in the interests of national defense, and by rule, regulation, or order restrict or prohibit the flight of civil aircraft, which he cannot identify, locate, and control with available facilities, within such zones or areas. [49 U.S.C. App. 1522]

PENALTIES

SEC. 1203. In addition to the penalties otherwise provided for by this Act, any person who knowingly or willfully violates any provision of this title, or any rule, regulation, or order issued thereunder shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not exceeding \$10,000 or to imprisonment not exceeding one year, or to both such fine and imprisonment. [49 U.S.C. App. 1523]

TITLE XIII—AVIATION INSURANCE

DEFINITIONS

SEC. 1301. As used in this title—

(1) the term "American aircraft" means any civil aircraft of the United States and any aircraft owned or chartered by, or made available to, the United States or any department or agency thereof, the government of any State, territory, or possession of the United States, or any political subdivision thereof, or the District of Columbia;

(2) the terms "insurance company" and "insurance carrier" include any mutual or stock insurance company, reciprocal insurance association, and any group or association authorized to do an aviation insurance business in any State of the United States; and

(3) the term "Secretary" means the Secretary of Transportation. [49 U.S.C. App. 1531]

AUTHORITY TO INSURE

AUTHORITY OF THE SECRETARY

SEC. 1302. (a)(1) The Secretary, with the approval of the President, and after such consultation with interested agencies of the Government as the President may require, may provide insurance and reinsurance against loss or damage arising out of any risk from the operation of an aircraft in the manner and to the extent provided by this title, whenever it is determined by the Secretary that such insurance cannot be obtained on reasonable terms and conditions from any company authorized to do an insurance business in a State of the United States.

(2) The President shall approve insurance or reinsurance under paragraph (1) of this subsection only if he has first made a determination that the continuation of the American aircraft, or the foreign-flag aircraft, operation to be insured or reinsured is necessary to carry out the foreign policy of the United States.

(3) Insurance shall be issued under this title only to cover any risk from the operation of an aircraft while such aircraft is (A) engaged in foreign air commerce, or (B) being operated between two or more points all of which are outside of the United States.

BASIS OF INSURANCE

(b) The premium charged for any insurance or reinsurance issued under any provision of this title shall be based, insofar as practicable, upon consideration of the risk involved.

PERIOD OF COVERAGE

(c) No insurance or reinsurance may be provided by the Secretary under this title for an initial period of more than sixty days. Such insurance or reinsurance may be extended for additional periods each of which shall not exceed sixty days, but only if, before each such extension, the President makes the same determination with respect to such extension as he is required to make under paragraph (2) of subsection (a) of this section for the initial provision of such insurance or reinsurance. [49 U.S.C. App. 1532]

INSURABLE PERSONS, PROPERTY, OR INTERESTS

SEC. 1303. The Secretary may provide the insurance and reinsurance, authorized by section 1302 with respect to the following persons, property, or interest:

(1) American aircraft and those foreign-flag aircraft engaged in aircraft operations deemed by the President to be necessary to carry out the foreign policy of the United States.

(2) Cargoes transported or to be transported on any aircraft referred to in paragraph (1), including shipments by express or registered mail; air cargoes owned by citizens or residents of the United States, its territories, or possessions; air cargoes im-

ported to, or exported from the United States, its territories, or possessions and air cargoes sold or purchased by citizens or residents of the United States, its territories, or possessions, under contracts of sale or purchase by the terms of which the risk of loss or the obligation to provide insurance against such risks is assumed by or falls upon a citizen or resident of the United States, its territories, or possessions; air cargoes transported between any point in the United States and any point in a territory or possession of the United States, between any point in any such territory or possession and any point in any other such territory or possession, or between any point in any such territory or possession and any other point in the same territory or possession.

(3) The personal effects and baggage of the captains, pilots, officers, members of the crews of any aircraft referred to in paragraph (1), and of other persons employed or transported on such aircraft.

(4) Captains, pilots, officers, members of the crews of any aircraft referred to in paragraph (1), and other persons employed or transported thereon against loss of life, injury, or detention.

(5) Statutory or contractual obligations or other liabilities of any aircraft referred to in paragraph (1) or of the owner or operator of such aircraft of the nature customarily covered by insurance. [49 U.S.C. App. 1533]

INSURANCE FOR DEPARTMENTS AND AGENCIES

EXCEPTION

SEC. 1304. (a) Any department or agency of the United States may, with the approval of the President, procure from the Secretary any of the insurance provided under this title, except with respect to valuables covered by sections 1 and 2 of the Act of July 8, 1937 (50 Stat. 479).

INDEMNITY AGREEMENTS

(b) The Secretary is authorized with such approval to provide such insurance at the request of the Secretary of Defense, and such other agencies as the President may prescribe, without premium in consideration of the agreement of the Secretary of Defense or such agency to indemnify the Secretary against all losses covered by such insurance, and the Secretary of Defense and such other agencies are authorized to execute such indemnity agreement with the Secretary. [49 U.S.C. App. 1534]

REINSURANCE

WHO MAY BE REINSURED

SEC. 1305. (a) To the extent that he is authorized by this title to provide insurance, the Secretary may reinsure, in whole or in part, any company authorized to do an insurance business in any State of the United States. The Secretary may reinsure with, or cede or retrocede to, any such company, any insurance or reinsurance pro-

vided by the Secretary in accordance with the provisions of this title.

PREMIUMS FOR REINSURANCE

(b) Reinsurance shall not be provided by the Secretary at premiums less than nor obtained by the Secretary at premiums more than the premiums established by the Secretary on the same or similar risks or the premiums charged by the insurance carrier for the insurance so reinsured, whichever is most advantageous to the Secretary, except that the Secretary may make to the insurance carrier such allowances for expenses on account of the cost of services rendered or facilities furnished as he deems reasonably to accord with good business practice, but such allowance to the carrier shall not provide for any payment by the carrier on account of solicitation for or stimulation of insurance business. [49 U.S.C. App. 1535]

COLLECTION, DISBURSEMENT, AND INVESTMENT OF FUNDS

TREASURY REVOLVING FUND

SEC. 1306. (a) Moneys appropriated by Congress to carry out the provisions of this title and all moneys received from premiums, salvage, or other recoveries and all receipts in connection with this title shall be deposited in a revolving fund in the Treasury of the United States. Payments of return premiums, losses, settlements, judgments, and all liabilities incurred by the United States under this title shall be made from such funds through the disbursing facilities of the Treasury Department.

APPROPRIATIONS

(b) Such sums as shall be necessary to carry out the provisions of this title are authorized to be appropriated to such fund.

REVOLVING FUND EXCESS

(c) At least annually, any balance in the revolving fund in excess of an amount determined by the Secretary to be necessary for the requirements of the fund, and for reasonable reserves to maintain the solvency of the fund shall be paid into the Treasury as miscellaneous receipts.

ANNUAL PAYMENT OF COSTS

(d) Annual payments shall be made by the Secretary to the Treasury of the United States as miscellaneous receipts by reason of costs incurred by the Government through the employment of appropriated funds by the Secretary in carrying out the provisions of this title. These payments shall be computed by applying to the average monthly balance of appropriated funds retained in the revolving fund a percentage determined annually in advance by the Secretary of the Treasury. Such percentage shall not be less than the current average rate which the Treasury pays on its marketable obligations.

CIVIL SERVICE RETIREMENT SYSTEM

(e) The Secretary shall contribute to the Civil Service Retirement and Disability Fund, on the basis of annual billings as determined by the Civil Service Commission,¹ for the Government's share of the cost of the Civil Service Retirement System applicable to the employees engaged in carrying out the provisions of this title. The Secretary shall also contribute to the employees' compensation fund, on the basis of annual billings as determined by the Secretary of Labor for the benefit payments made from such fund on account of the employees engaged in carrying out the provisions of this title. The annual billings shall also include a statement of the fair portion of the cost of the administration of the respective funds, which shall be paid by the Secretary into the Treasury as miscellaneous receipts.

INVESTMENT OF REVOLVING FUND

(f) Upon the request of the Secretary, the Secretary of the Treasury may invest all or any part of the revolving fund in interest-bearing securities of the United States. The interest on, and the proceeds from the sale or redemption of, any securities held in the revolving fund shall be credited to and form a part of the revolving fund. [49 U.S.C. App. 1536]

ADMINISTRATIVE POWERS OF SECRETARY

REGULATORY AND SETTLEMENT

SEC. 1307. (a) The Secretary, in the administration of this title, may issue such policies, rules, and regulations as he deems proper and, subject to the following provisions of this subsection, may adjust and pay losses, compromise and settle claims, whether in favor of or against the United States and pay the amount of any judgment rendered against the United States in any suit, or the amount of any settlement agreed upon, in respect of any claim under insurance authorized by this title. In the case of any aircraft which is insured under the provisions of this title, (1) the policy shall specify a stated amount to be paid in the event of total loss, and such stated amount shall not exceed an amount determined by the Secretary, to represent the fair and reasonable value of the aircraft, and (2) the amount of any claim which is compromised, settled, adjusted, or paid shall in no event exceed such stated amount.

FORMS, POLICIES, AMOUNTS INSURED, AND PREMIUMS

(b) The Secretary may prescribe and change forms and policies, and fix, adjust, and change the amounts insured and the premiums provided for in this title, except that with respect to policies in effect at the time any such change is made, such change shall apply only with the consent of the insured.

¹ Now the Office of Personnel Management. Reorg. Plan No. 2 of 1978, 92 Stat. 3783.

MANNER OF ADMINISTRATION

(c) The Secretary, in administering this title, may exercise his powers, perform his duties and functions, and make his expenditures, in accordance with commercial practice in the aviation insurance business. Except as authorized in subsection (d) of this section, no insurance broker or other person acting in a similar intermediary capacity shall be paid any fee or other consideration by the Secretary by virtue of his participation in arranging any insurance wherein the Secretary directly insures any of the risk thereof.

EMPLOYMENT OF AVIATION INSURANCE COMPANIES AND AGENTS

(d) The Secretary may, and whenever he finds it practical to do so shall, employ companies or groups of companies authorized to do an aviation insurance business in any State of the United States, to act as his underwriting agent. The Secretary may allow such companies or groups of companies fair and reasonable compensation for servicing insurance written by such companies or groups of companies as underwriting agent for the Secretary. The services of such underwriting agents may be utilized in the adjustment of claims under insurance provided by this title, but no claim shall be paid unless and until it has been approved by the Secretary. Such compensation may include an allowance for expenses reasonably incurred by such agent, but such allowance shall not include any payment by such agent on account of solicitation for or stimulation of insurance business.

COOPERATION WITH OTHER AGENCIES

(e) The Secretary with the consent of any executive department, independent establishment, or other agency of the Government, including any field service thereof, may avail himself of the use of information, services, facilities, officers, and employees thereof in carrying out the provisions of this title.

BUDGET PROGRAM AND ACCOUNTS

(f) The Secretary, in the performance of, and with respect to, the functions, powers, and duties vested in him by this title, shall prepare annually and submit a budget program as provided for wholly owned Government corporations by the Government Corporation Control Act, as amended (59 Stat. 597; 31 U.S.C. 841). The Secretary shall maintain a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of the Accounting and Auditing Act of 1950. *Provided, That*, because of the business activities authorized by this title, the Secretary may exercise the powers conferred in said title, perform the duties and functions, and make expenditures required in accordance with commercial practice in the aviation insurance business, and the General Accounting Office shall allow credit for such expenditures when shown to be necessary because of the nature of such authorized activities. [49 U.S.C. App. 1537]

RIGHTS OF AIRMEN UNDER EXISTING LAW

SEC. 1308. This title shall not affect rights of airmen under existing law. [49 U.S.C. App. 1538]

[Sec. 1309. Repealed Public Law 96-470, § 112(f)]

JUDICIAL REVIEW OF CLAIMS

SEC. 1310. Upon disagreement as to a loss insured under this title, suit may be maintained against the United States in the United States District Court for the District of Columbia or in the United States district court in and for the district in which the claimant or his agent resides, notwithstanding the amount of the claim and any provision of existing law as to the jurisdiction of United States district courts, and this remedy shall be exclusive of any other action by reason of the same subject matter against any agent or employee of the United States employed or retained under this title. If the claimant has no residence in the United States, suit may be brought in the United States District Court for the District of Columbia or in any other United States district court in which the Attorney General of the United States agrees to accept service. The procedure in such suits shall otherwise be the same as that provided for suits in the district courts by title 28, United States Code, section 1346(a)(2), so far as applicable. All persons having or claiming or who might have an interest in such insurance may be made parties either initially or upon the motion of either party. In any case where the Secretary acknowledges the indebtedness of the United States on account of such insurance, and there is a dispute as to the persons entitled to receive payment, the United States may bring an action in the nature of a bill of interpleader against such parties, in the United States District Court for the District of Columbia, or in the United States district court of the district in which any such person resides. In such actions any party, if not a resident of or found within the district, may be brought in by order of court served in such reasonable manner as the court directs. If the court is satisfied that persons unknown might assert a claim on account of such insurance, it may direct service upon such persons unknown by publication in the Federal Register. Judgment in any such suit shall discharge the United States from further liability to any parties to such action, and to all persons when service by publication upon persons unknown is directed by the court. The period within which suits may be commenced contained in said Act providing for bringing of suits against the United States shall, if claim be filed therefor within such period, be suspended from such time of filing until the claim shall have been administratively denied by the Secretary and for sixty days thereafter: *Provided, however,* That such claim shall be deemed to have been administratively denied if not acted upon within six months after the time of filing, unless the Secretary for good cause shown shall have otherwise agreed with the claimant. [49 U.S.C. App. 1540]

INSURANCE OF EXCESS WITH OTHER UNDERWRITERS

SEC. 1311. A person having an insurable interest in an aircraft may, with the approval of the Secretary, insure with other underwriters in an amount in excess of the amount insured with the Secretary, and, in that event, the Secretary shall not be entitled to the benefit of such insurance, but nothing in this section shall prevent the Secretary from entering into contracts of coinsurance. [49 U.S.C. App. 1541]

TERMINATION OF TITLE

SEC. 1312. The authority of the Secretary to provide insurance and reinsurance under this title shall expire at the termination of September 30, 1992. [49 U.S.C. App. 1542]

[TITLE XIV—AMENDMENTS TO OTHER LAWS: OMITTED]

TITLE XV—SAVING PROVISIONS AND EFFECTIVE DATE

EFFECT OF TRANSFERS, REPEALS, AND AMENDMENTS

EXISTING RULES, REGULATIONS, ORDERS, AND SO FORTH

SEC. 1501. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, rates, and privileges which have been issued, made, or granted, or allowed to become effective, by the President, the Department of Commerce, the Secretary of Commerce, the Administrator of Civil Aeronautics, the Civil Aeronautics Board, the Airways Modernization Board, the Secretary of the Treasury, the Secretary of Agriculture, or the Postmaster General, or any court of competent jurisdiction, under any provision of law repealed or amended by this Act, or in the exercise of duties, powers, or functions which, under this Act, are vested in the Administrator of the Federal Aviation Agency or the Civil Aeronautics Board, and which are in effect at the time this section takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Administrator or the Board, as the case may be, or by any court of competent jurisdiction, or by operation of law.

PENDING ADMINISTRATIVE PROCEEDINGS

(b) The provisions of this Act shall not affect any proceedings pending at the time this section takes effect before the Secretary of Commerce, the Administrator of Civil Aeronautics, the Civil Aeronautics Board, the Chairman of the Airways Modernization Board, the Secretary of the Treasury, or the Secretary of Agriculture; but any such proceeding shall be continued before the successor agency, orders therein issued, appeals therefrom taken, and payments made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Administrator, the Civil Aeronautics Board, the Secretary of the Treasury, or the Secretary of Agriculture or by operation of law.

PENDING JUDICIAL PROCEEDINGS

(c) The provisions of this Act shall not affect suits commenced prior to the date on which this section takes effect; and all such suits shall be continued by the successor agency, proceedings therein had, appeals therein taken, and judgments therein rendered, in the same manner and with the same effect as if this Act had not been passed. No suit, action, or other proceeding lawfully commenced by or against any agency or officer of the United States, in relation to the discharge of official duties, shall abate by reason of any transfer of authority, power, or duties from such agency or officer to the Administrator or the Board under the provisions of this Act, but the court, upon motion or supplemental petition filed at any time within twelve months after such transfer, showing the necessity for a survival of such suit, action, or other proceeding to obtain a settlement of the questions involved, may allow the same to be maintained by or against the Administrator or the Board.

PERSONNEL, PROPERTY, AND APPROPRIATIONS

SEC. 1502. (a) The officers, employees, and property (including office equipment and official records) of the Civil Aeronautics Administration of the Department of Commerce, and of the Airway Modernization Board, and such employees and property (including office equipment and official records) as the President, after consultation with the Civil Aeronautics Board, shall determine to have been employed by the Civil Aeronautics Board in the exercise and performance of those powers and duties vested in and imposed upon it by the Civil Aeronautics Act of 1938, as amended, and which are vested by this Act in the Agency, shall be transferred to the Agency upon such date or dates as the President shall specify: *Provided*, That the transfer of such personnel shall be without reduction in classification or compensation, except that this requirement shall not operate after the end of the fiscal year during which such transfer is made to prevent the adjustment of classification or compensation to conform to the duties to which such transferred personnel may be assigned.

(b) Such of the unexpended balances of appropriations available for use by the Civil Aeronautics Administration of the Department of Commerce and by the Airways Modernization Board, and such of the unexpended balances of appropriations available for use by the Civil Aeronautics Board in the exercise and performance of those powers and duties vested in and imposed upon it by the Civil Aeronautics Act of 1938, as amended, and which are vested by this Act in the Administrator, shall be transferred to the Agency upon such date or dates as the President shall specify, and shall be available for use in connection with the exercise and performance of the powers and duties vested in and imposed upon the Administrator by this Act. Where provisions of this Act which are to be administered by the Board are in substance reenactments (with or without modifications) of provisions of the Civil Aeronautics Act of 1938, as amended, administered by the Board at the time this section takes effect, the Board, in carrying out such provisions of this Act, may utilize unexpended balances of appropriations made for carrying

out such provisions of the Civil Aeronautics Act of 1938, as amended.

(c) All records transferred to the Administrator under this Act shall be available for use by him to the same extent as if such records were originally records of the Administrator.

MEMBERS, OFFICERS, AND EMPLOYEES OF THE BOARD

SEC. 1503. Nothing in this Act (1) shall affect the tenure of office of any individual who is a member of the Civil Aeronautics Board at the time title IV of this Act takes effect, or to nullify any action theretofore taken by the President in designating any such person as chairman or vice chairman of the Board, or (2) subject to section 1502(a), change the status of the officers and employees under the jurisdiction of the Board at that time.

SEPARABILITY

SEC. 1504. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 1505. The provisions of this Act shall become effective as follows:

(1) Section 301, section 302 (a), (b), (c), (f), (i), and (k), section 303(a), section 304, and section 1502 shall become effective on the date of enactment of this Act; and

(2) The remaining provisions shall become effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency first appointed under this Act qualifies and takes office.

TITLE XVI—SUNSET PROVISIONS

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

TERMINATION OF AUTHORITY

SEC. 1601. (a)(1) The following provisions of this Act (to the extent such provisions relate to interstate and overseas air transportation of persons) and the authority of the Board with respect to such provisions (to the same extent) shall cease to be in effect on December 31, 1981:

(A) Sections 401(d) (1), (2), and (3) of this Act (insofar as such sections require a determination of consistency with the public convenience and necessity and insofar as section 401(d)(3) prohibits persons holding certificates under section 401(d)(1) or (d)(2) from obtaining certificates to provide interstate or overseas charter air transportation of persons).

(B) Section 401(d)(8) of this Act.

(C) Section 401(e)(1) of this Act (insofar as such section permits the Board to specify terminal and intermediate points).

(D) Section 401(j) of this Act (except with respect to essential air transportation).

(E) Section 401(n) (1) and (4) of this Act.

(F) Section 404(a) of this Act (insofar as such section requires any air carrier to provide air transportation authorized by its certificate).

(G) Section 405(b) of this Act (insofar as such section requires the filing of any statement or schedule by any air carrier).

(2) The following provisions of this Act (to the extent such provisions relate to interstate and overseas air transportation of persons) and the authority of the Board with respect to such provisions (to the same extent) shall cease to be in effect on January 1, 1983:

(A) Section 403 of this Act.

(B) Section 404 of this Act (except insofar as such section requires air carriers to provide safe and adequate service).

(C) Section 407 (b) and (c) of this Act.

(D) Sections 1002 (d)(1) and (d)(2), (e), (g), (h), and (i) of this Act.

(3) Title II of this Act (other than section 204) shall cease to be in effect on January 1, 1985.

(4) The following provisions of this Act (to the extent such provisions relate to interstate and overseas air transportation) and the authority of the Board with respect to such provisions (to the same extent) shall cease to be in effect on January 1, 1985:

(A) Sections 401 (l) and (m) and 405 (b), (c), and (d) of this Act (except insofar as such sections apply to the transportation of mail between two points both of which are within the State of Alaska).

(B) Section 403 of this Act.

(C) Section 404 of this Act (except insofar as such section requires air carriers to provide safe and adequate service).

(5) The following provisions of this Act and the authority of the Board with respect to such provisions shall cease to be in effect on January 1, 1985:

(A) Sections 407 (b) and (c) of this Act.

(B) Section 410 of this Act.

(C) Section 417 of this Act.

(D) Section 1002 (d), (e), (g), (h), and (i) of this Act (except insofar as any of such sections relate to foreign air transportation).

(6) Sections 412 (a) and (b) of this Act (to the extent such sections related to interstate and overseas air transportation) and section 414 of this Act (to the extent such section relates to orders made under sections 412 (a) and (b) with respect to interstate and overseas air transportation) and the authority of the Secretary of Transportation under such sections (to the same extent) shall cease to be in effect on January 1, 1989.

(7) Sections 408 and 409 of this Act and section 414 of this Act (relating to such sections 408 and 409) and the authority of the Secretary of Transportation under such sections (to the same extent) shall cease to be in effect on January 1, 1989.

(8) Sections 401 (l) and (m) and 405 (b), (c), and (d) of this Act (to the extent such sections apply to the transportation of mail between two points both of which are within the State of Alaska) shall cease to be in effect on January 1, 1989.

TRANSFER OF CERTAIN AUTHORITY

(b)(1) The following authority of the Board is transferred to the following Federal departments and instrumentalities:

(A) The authority of the Board under section 406 (b)(3) and (c) of this Act to provide compensation for air transportation to small communities and under section 419 of this Act is transferred to the Department of Transportation.

(B) The authority of the Board under this Act with respect to foreign air transportation is transferred to the Department of Transportation which shall exercise such authority in consultation with the Department of State.

(C) The authority of the Board under sections 408 and 409 of this Act, the authority of the Board under section 412 of this Act, and the authority of the Board under section 414 of this Act (relating to such sections 408, 409, and 412) is transferred to the Department of Transportation.

(D) The authority of the Board under this Act with respect to the determination of the rates for the carriage of mails in interstate and overseas air transportation (other than for the carriage of mails between any two points both of which are within the State of Alaska) is transferred to the Postal Service and such authority shall be exercised through negotiations or competitive bidding.

(E) All authority of the Board under this Act which is not terminated under subsection (a) of this section on or before January 1, 1985, and is not otherwise transferred under this subsection is transferred to the Department of Transportation.

(2) Any authority transferred under paragraph (1) of this subsection shall take effect on January 1, 1985.

(3) The authority of the Secretary of Transportation under this Act with respect to the determination of the rates for the carriage of mails between any two points both of which are within the State of Alaska is transferred to the Postal Service and such authority shall be exercised through negotiations or competitive bidding. The transfer of authority under this paragraph shall take effect on January 1, 1989.

REPORT AND ASSESSMENT BY BOARD

(c) Not later than January 1, 1984, the Board shall prepare and submit to the Congress a comprehensive review of the Board's implementation of the provisions of this Act during the preceding initial period of this Act's existence, and a comprehensive review of each of the Board's programs under this Act. Each such review shall be made available to the committee or committees of the Senate and House of Representatives having jurisdiction with respect to the annual authorization of funds for the Board and its programs for the fiscal year beginning October 1, 1983.

ELEMENTS OF BOARD CONSIDERATION

(d) The comprehensive review of the Board's implementation of this Act, prepared for submission under subsection (c), shall include—

(1) a detailed comparison of the degree of competition within the airline industry as of the year preceding enactment of this section and the final year covered by the review;

(2) a comparison of the degree of pricing competition in the industry during those two one-year periods;

(3) a comparison of the extent of unused authority held by the industry during those two one-year periods, with details as to the number of nonstop route segments which have been transferred from one carrier to another under section 401(d)(5) of this Act;

(4) an assessment of the degree to which agreements approved under section 412 of this Act have affirmatively or negatively affected the degree of competition within the industry;

(5) a comparison of the extent of air transportation service provided to small communities during the two one-year periods specified above, together with details as to the comparative subsidy costs during these two periods;

(6) an assessment of the degree, if any, to which the administrative process has been expedited under this Act;

(7) an assessment of the impact of the foregoing changes upon the national air transportation system in terms of benefits or detriments to the traveling and shipping public, the Postal Service, and the national defense, and the benefits and detriments to air carriers, certificated and uncertificated; and

(8) the Board's opinion as to whether the foregoing changes in combination, have improved or harmed this Nation's domestic air transportation system and the United States-flag foreign air transportation system.

This assessment shall be accompanied by a detailed opinion from the Board as to whether the public interest requires continuation of the Board and its functions beyond January 1, 1985, and, if it is the Board's conclusion that it should continue to exist, detailed recommendations as to how the provisions of this Act should be revised to insure continued improvement of the Nation's air transportation system beyond January 1, 1985. The Board's assessment under this subsection shall also be accompanied by a comparative analysis of procedures under section 801 of this Act before and after the date of enactment of the Airline Deregulation Act of 1978, together with the Board's opinion as to the benefits of each set of procedures.

ELEMENTS FOR EACH COMPREHENSIVE REVIEW

(e) Each comprehensive review of the Board's programs under this Act, prepared for submission under subsection (c) of this section, shall include—

(1) an identification of the objectives intended for the program, and the problem or need which the program was intended to address;

(2) an identification of any other programs having similar or potentially conflicting or duplicative objectives;

(3) an assessment of alternative methods of achieving the purposes of the program;

(4) a justification for the authorization of new budget authority, and an explanation of the manner in which it conforms to and integrates with other efforts;

(5) an assessment of the degree to which the original objectives of the program have been achieved, expressed in terms of the performance, impact, or accomplishments of the program and of the problem or need which it was intended to address, and employing the procedures or methods of analysis appropriate to the type or character of the program;

(6) a statement of the performance and accomplishments of the program in each of the previous four completed fiscal years and in the year of submission, and of the budgetary costs incurred in the operation of the program;

(7) a statement of the number and types of beneficiaries or persons or entities by the program;

(8) an assessment of the effect of the program on the national economy, including, but not limited to, the effects on competition, economic stability, employment, unemployment, productivity, energy consumption and conservation, and price inflation, including costs to consumers and to businesses;

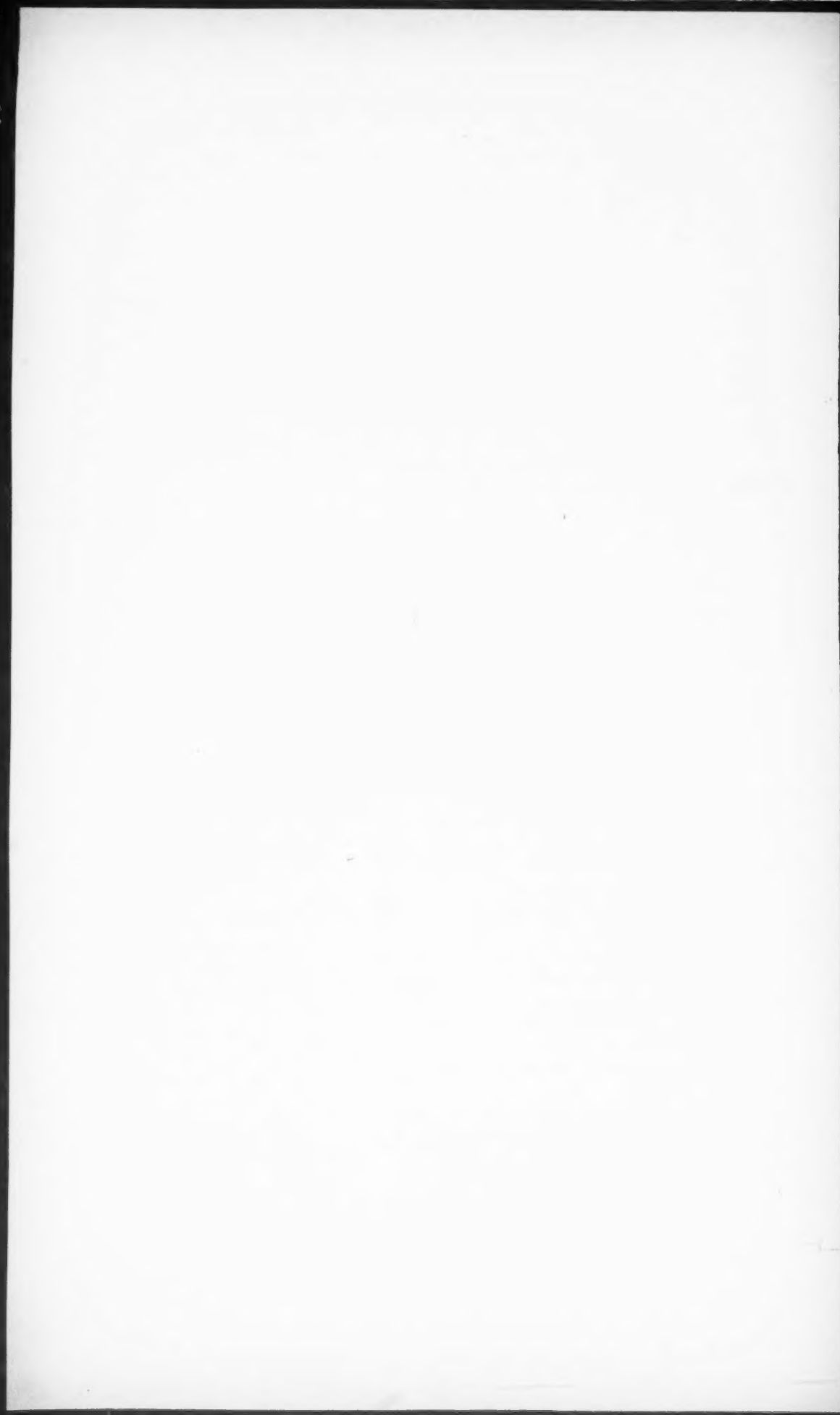
(9) an assessment of the impact of the program on the Nation's health and safety;

(10) an assessment of the degree to which the overall administration of the program, as expressed in the rules, regulations, orders, standards, criteria, and decisions of the officers executing the program, are believed to meet the objectives of the Congress in enacting this Act;

(11) a projection of the anticipated needs for accomplishing the objectives of the program, including an estimate if applicable of the date on which, and the conditions under which, the program may fulfill such objectives;

(12) an analysis of the services which could be provided and performance which could be achieved if the program were contained at a level less than, equal to, or greater than the existing level; and

(13) recommendations for necessary transitional requirements in the event that funding for such program is discontinued, including proposals for such executive or legislative action as may be necessary to prevent such discontinuation from being unduly disruptive. [49 U.S.C. App. 1551]



CIVIL AERONAUTICS BOARD SUNSET ACT OF 1984



CIVIL AERONAUTICS BOARD SUNSET ACT OF 1984

Public Law 98-443; 98 Stat. 1703

AN ACT to amend the Federal Aviation Act of 1958 to terminate certain functions of the Civil Aeronautics Board to transfer certain functions of the Board to the Secretary of Transportation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Civil Aeronautics Board Sunset Act of 1984".

AMENDMENT OF FEDERAL AVIATION ACT OF 1958

SEC. 2. Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.).

TERMINATION AND TRANSFER OF FUNCTIONS UNDER THE FEDERAL AVIATION ACT OF 1958

SEC. 3. (a) Section 1601(b)(1)(C) is amended by striking out "Justice" and inserting in lieu thereof "Transportation".

(b) Section 1601(a)(3) is amended by inserting after "Act" the following: "(other than section 204)".

(c) Section 1601(a) is amended by adding at the end thereof the following:

"(4) The following provisions of this Act (to the extent such provisions relate to interstate and overseas air transportation) and the authority of the Board with respect to such provisions (to the same extent) shall cease to be in effect on January 1, 1985:

"(A) Sections 401 (l) and (m) and 405 (b), (c), and (d) of this Act (except insofar as such sections apply to the transportation of mail between two points both of which are within the State of Alaska).

"(B) Section 403 of this Act.

"(C) Section 404 of this Act (except insofar as such section requires air carriers to provide safe and adequate service).

"(5) The following provisions of this Act and the authority of the Board with respect to such provisions shall cease to be in effect on January 1, 1985:

"(A) Sections 407 (b) and (c) of this Act.

"(B) Section 410 of this Act.

"(C) Section 417 of this Act.

"(D) Sections 1002 (d), (e), (g), (h), and (i) of this Act (except insofar as any of such sections relate to foreign air transportation).

"(6) Sections 412 (a) and (b) of this Act (to the extent such sections relate to interstate and overseas air transportation) and section 414 of this Act (to the extent such section relates to orders made under sections 412 (a) and (b) with respect to interstate and overseas air transportation) and the authority of the Secretary of Transportation under such sections (to the same extent) shall cease to be in effect on January 1, 1989.

"(7) Sections 408 and 409 of this Act and section 414 of this Act (relating to such sections 408 and 409) and the authority of the Secretary of Transportation under such sections (to the same extent) shall cease to be in effect on January 1, 1989.

"(8) Sections 401 (l) and (m) and 405 (b), (c), and (d) of this Act (to the extent such sections apply to the transportation of mail between two points both of which are within the State of Alaska) shall cease to be in effect on January 1, 1989."

(d) Section 1601(b)(1)(D) is amended by inserting after "transportation" the following: "(other than for the carriage of mails between any two points both of which are within the State of Alaska)".

(e) Section 1601(b)(1) is amended by adding at the end thereof the following:

"(E) All authority of the Board under this Act which is not terminated under subsection (a) of this section on or before January 1, 1985, and is not otherwise transferred under this subsection is transferred to the Department of Transportation."

(f) Section 1601(b) is amended by adding at the end thereof the following:

"(3) The authority of the Secretary of Transportation under this Act with respect to the determination of the rates for the carriage of mails between any two points both of which are within the State of Alaska is transferred to the Postal Service and such authority shall be exercised through negotiations or competitive bidding. The transfer of authority under this paragraph shall take effect on January 1, 1989."

TRANSFERS OF FUNCTIONS UNDER OTHER LAWS

SEC. 4. (a) There are hereby transferred to and vested in the Secretary of Transportation all functions, powers, and duties of the Civil Aeronautics Board under the following provisions of law:

(1) The International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 1159b).

(2) The International Aviation Facilities Act (49 U.S.C. 1151-1160).

(3) The Animal Welfare Act (7 U.S.C. 2131 et seq.).

(4) Section 11 of the Clayton Act (15 U.S.C. 21).

(5) Sections 108(a)(4), 621(b)(5), 704(a)(5), and 814(b)(5) of the Consumer Credit Protection Act (15 U.S.C. 1607(a)(4), 1681s(b)(5), 1691c(a)(5), and 1692l(b)(5)).

(6) Section 382 of the Energy Policy and Conservation Act (89 Stat. 939, 42 U.S.C. 6362).

(7) Section 401 of the Federal Election Campaign Act of 1971 (2 U.S.C. 451).

(8) Section 5402 of title 39, United States Code (to the extent such section relates to foreign air transportation and to air transportation between any two points both of which are within the State of Alaska).

(9) Sections 4746 and 9746 of title 10, United States Code.

(10) Section 3 of the Act entitled "An Act to encourage travel in the United States, and for other purposes" (16 U.S.C. 18b).

(b) The transfer of any authority under subsection (a) of this section shall take effect on January 1, 1985.

(c) The authority of the Secretary of Transportation under section 5402 of title 39, United States Code, with respect to air transportation between any two points both of which are within the State of Alaska shall cease to be in effect on January 1, 1989.

COLLECTION OF DATA

SEC. 5. (a) Section 329(b)(1) of title 49, United States Code, is amended to read as follows:

"(1) collect and disseminate information on civil aeronautics (other than that collected and disseminated by the National Transportation Safety Board under title VII of the Federal Aviation Act of 1958 (49 U.S.C. 1441 et seq.)) including, at a minimum, information on (A) the origin and destination of passengers in interstate and overseas air transportation (as those terms are used in such Act), and (B) the number of passengers traveling by air between any two points in interstate and overseas air transportation; except that in no case shall the Secretary require an air carrier to provide information on the number of passengers or the amount of cargo on a specific flight if the flight and the flight number under which such flight operates are used solely for interstate or overseas air transportation and are not used for providing essential air transportation under section 419 of the Federal Aviation Act of 1958;"

(b) The amendment made by this section shall take effect on January 1, 1985.

REPORTS

SEC. 6. (a) The Secretary of Transportation shall submit a report to the appropriate committees of Congress not later than July 1, 1987, listing (1) transactions submitted to the Secretary for approval under section 408 of the Federal Aviation Act of 1958, (2) interlocking relations submitted to the Secretary for approval under section 409 of such Act, and (3) the types of agreements filed with the Secretary of Transportation under section 412 of such Act, and, with respect to such transactions, interlocking relationships, and agreements, those that have been exempted from the operation of the antitrust laws under section 414 of such Act. The Secretary shall recommend whether the authority under such sections 408, 409, 412, and 414 should be retained or repealed with respect to

interstate and overseas air transportation and with respect to foreign air transportation.

(b) The Secretary of Transportation and the Postmaster General shall each submit a report to the appropriate committees of Congress not later than July 1, 1987, describing how the Secretary and the Postmaster General have administered their respective authorities to establish rates for the air transportation of mail and setting forth the recommendations of the Secretary and the Postmaster General as to whether the authority to establish rates for the transportation of mail between points within the State of Alaska should continue to be carried out by the Secretary by regulatory ratemaking or by the Postal Service through negotiations or competitive bidding.

INCORPORATION BY REFERENCE

SEC. 7. (a) Section 411 of the Federal Aviation Act of 1958 is amended by inserting "(a)" after "Sec. 411." and by adding at the end thereof the following new subsection:

"INCORPORATION BY REFERENCE

"(b) Any air carrier may incorporate by reference in any ticket or other written instrument any of the terms of the contract of carriage in interstate and overseas air transportation, to the extent such incorporation by reference is in accordance with regulations issued by the Board."

(b) Section 411 of the Federal Aviation Act of 1958 is amended by inserting before subsection (a) (as designated by subsection (a) of this section) the following subsection heading:

"INVESTIGATIONS"

(c) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1985 which appears under the center heading

"TITLE IV—AIR CARRIER ECONOMIC REGULATION"

is amended by striking out

"Sec. 411. Methods of competition."

and inserting in lieu thereof

"Sec. 411. Methods of competition.

"(a) Investigations.

"(b) Incorporation by reference."

REFERENCES TO CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

SEC. 8. Any reference in any law to a certificate of public convenience and necessity, or to a certificate of convenience and necessity, issued by the Civil Aeronautics Board shall be deemed to refer to a certificate issued under section 401 or 418 of the Federal Aviation Act of 1958.

MISCELLANEOUS AMENDMENTS

SEC. 9. (a)(1) Section 101(11) is amended to read as follows:

"(11) 'All-cargo air service' means the carriage by aircraft in interstate or overseas air transportation of only property or mail, or both."

(2) Section 418(b)(3) is repealed.

(b) Section 1307(a) is amended by striking out ", after consultation with the Civil Aeronautics Board,".

(c) Section 11 of the International Aviation Facilities Act (49 U.S.C. 1159a) is amended in the second sentence by striking out "and the Civil Aeronautics Board" and by striking out "in collaboration with the Civil Aeronautics Board" and inserting in lieu thereof "in collaboration with the Secretary of Transportation".

(d) Section 2 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 1159b) is amended by—

(1) striking out "the Civil Aeronautics Board," in subsection

(a);

(2) striking out "Civil Aeronautics Board" and "Board" each time they appear in subsection (b) and the first sentence of subsection (d) and inserting in lieu thereof "Secretary of Transportation" and "Secretary", respectively;

(3) striking out "and the Department of Transportation" in subsection (b)(2); and

(4) striking out the last sentence in subsection (d) and inserting in lieu thereof the following: "The Secretaries of State and Treasury shall furnish to the Secretary of Transportation such information as may be necessary to prepare the report required by this subsection."

(e) Section 5314 of title 5, United States Code, is amended by striking out "Chairman, Civil Aeronautics Board.". Section 5315 of title 5, United States Code, is amended by striking out "Members, Civil Aeronautics Board."

(f) Section 3726(b)(1) of title 31, United States Code, is amended by striking out "Civil Aeronautics Board" and inserting in lieu thereof "Secretary of Transportation with respect to foreign air transportation (as defined in the Federal Aviation Act of 1958)".

(g)(1) Sections 3401 (b) and (c) of title 39, United States Code, are each amended by striking out "Civil Aeronautics Board" and inserting in lieu thereof "Secretary of Transportation".

(2) Section 5005(b)(3) of title 39, United States Code, is amended by striking out "Civil Aeronautics Board" and inserting in lieu thereof "Secretary of Transportation if for the carriage of mail in foreign air transportation (as defined in section 101 of the Federal Aviation Act of 1958)".

(3) Section 5401(b) of title 39, United States Code, is amended by striking out "Civil Aeronautics Board" and inserting in lieu thereof "Secretary of Transportation".

(4) Section 5402 of title 39, United States Code, is amended—

(A) by striking out "Civil Aeronautics Board" each place it appears and and inserting in lieu thereof "Secretary of Transportation";

(B) in the first sentence of subsection (a), by inserting "in foreign air transportation" after "points";

(C) in the second sentence of subsection (a), by striking out "10 percent of the domestic mail transported under any such contract or";

(D) in the first sentence of subsection (b), by inserting "in foreign air transportation" after "points";

(E) in the first sentence of subsection (c), by inserting "in foreign air transportation" after "points"; and

(F) by adding at the end thereof the following new subsections:

"(d) The Postal Service may contract with any air carrier for the transportation of mail by aircraft in interstate and overseas air transportation either through negotiations or competitive bidding.

"(e) For purposes of this section, the terms 'air carrier', 'interstate air transportation', 'overseas air transportation', and 'foreign air transportation' have the meanings given such terms in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301).

"(f) During the period beginning January 1, 1985, and ending January 1, 1989, the authority of the Secretary of Transportation and the Postal Service under subsections (a), (b), and (c) of this section shall also apply, and the authority of the Postal Service under subsection (d) shall not apply, to the transportation of mail by aircraft between any two points both of which are within the State of Alaska and between which the air carrier is authorized by the Secretary to engage in the transportation of mail."

(h) Section 3502(10) of title 44, United States Code, is amended by striking out "the Civil Aeronautics Board,".

(i) Section 15(a) of the Animal Welfare Act (7 U.S.C. 2145(a)) is amended by striking out "the Civil Aeronautics Board" and inserting in lieu thereof "the Secretary of Transportation".

(j) Section 203(j) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(j)) is amended by striking out "the Civil Aeronautics Board".

(k) Sections 4746 and 9746 of title 10, United States Code, are each amended by striking out "Civil Aeronautics Board" and inserting in lieu thereof "Secretary of Transportation".

(l) Section 7 of the Clayton Act (15 U.S.C. 18) is amended in the final paragraph by striking out "Civil Aeronautics Board" and inserting in lieu thereof "Secretary of Transportation" and by striking out "Commission, Secretary, or Board" and inserting in lieu thereof "Commission or Secretary".

(m) Section 11 of the Clayton Act (15 U.S.C. 21) is amended—

(1) in subsection (a), by striking out "Civil Aeronautics Board" and inserting in lieu thereof "Secretary of Transportation" and by striking out "Civil Aeronautics Act of 1938" and inserting in lieu thereof "Federal Aviation Act of 1958";

(2) in subsection (b), by striking out "Commission or Board" each place it appears and inserting in lieu thereof "Commission, Board, or Secretary"; and

(3) by striking out "commission or board" each place it appears in such section and inserting in lieu thereof "commission, board, or Secretary".

(n) The Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by striking out "Civil Aeronautics Board" and inserting

in lieu thereof "Secretary of Transportation" each place it appears in section 108(a)(4) (15 U.S.C. 1607(a)(4)), section 621(b)(5) (15 U.S.C. 1681s(b)(5)), section 704(a)(5) (15 U.S.C. 1691c(a)(5)), and section 814(b)(5) (15 U.S.C. 1692l(b)(5)).

(o) Section 3 of the Act entitled "An Act to encourage travel in the United States, and for other purposes" (16 U.S.C. 18b; 54 Stat. 773), is amended by striking out "the Civil Aeronautics Authority,".

(p) Section 47(a)(7)(C) of the Internal Revenue Code of 1954 is amended by striking out "Civil Aeronautics Board" and inserting in lieu thereof "Secretary of Transportation".

(q) Section 7701(a)(33)(E) of the Internal Revenue Code of 1954 is amended by striking out "Civil Aeronautics Board" and inserting in lieu thereof "Secretary of Transportation".

(r) Section 419(c)(1) is amended by striking out "416(b)(3)" and inserting in lieu thereof "416(b)(4)".

(s) Section 412(c)(2) is amended by striking out "subsection (c) of this section" and inserting in lieu thereof "subsection (a) of this section".

(t) Section 407(e) is amended by striking out the first sentence and inserting in lieu thereof the following: "The Board shall have access to all lands, buildings, and equipment of any air carrier or foreign air carrier when necessary for a determination under section 401, 402, 418, or 419 of this title that such carrier is fit, willing, and able. The Board shall at all times have access to all accounts, records, and memorandums, including all documents, papers, and correspondence, now or hereafter existing, and kept or required to be kept by air carriers, foreign air carriers, or ticket agents. The Board may employ special agents or auditors, who shall have authority under the orders of the Board to inspect and examine lands, buildings, equipment, accounts, records, and memorandums to which the Board has access under this subsection.".

(u) Section 105(a)(1) is amended by striking out "interstate air transportation" and inserting in lieu thereof "air transportation".

(v) The amendments made by this section shall take effect on January 1, 1985.

TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL

SEC. 10. (a) The personnel (including members of the Senior Executive Service) employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with, any function transferred by section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act, subject to section 1531 of title 31, United States Code, shall be transferred to the head of the agency to which such function is transferred for appropriate allocation. Personnel employed in connection with functions so transferred or transferred in accordance with any other lawful authority, shall be transferred in accordance with any applicable laws and regulations relating to transfer of functions. Unexpended funds transferred pursuant to this subsection shall only be used for

the purpose for which the funds were originally authorized and appropriated.

(b) In order to facilitate the transfers made by section 1601(b) of the Federal Aviation Act of 1958 and section 4 of this Act, the Director of the Office of Management and Budget is authorized and directed, in consultation with the Civil Aeronautics Board and the heads of the agencies to which functions are so transferred, to make such determinations as may be necessary with regard to the functions so transferred, and to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with, such functions, as may be necessary to resolve disputes between the Civil Aeronautics Board and the agencies to which functions are transferred by section 1601(b) of the Federal Aviation Act of 1958 and section 4 of this Act.

(c) The Chairman of the Civil Aeronautics Board and the Secretary of Transportation shall, beginning as soon as practicable after the date of enactment of this Act, jointly plan for the orderly transfer of functions and personnel pursuant to section 1601(b) of the Federal Aviation Act of 1958 and section 4 of this Act.

EFFECT ON PERSONNEL

SEC. 11. (a) Employees covered by the merit pay system under chapter 54 of title 5, United States Code, who are transferred under section 10 of this Act to another agency shall have their rate of basic pay adjusted in accordance with section 5402 of such title. With respect to the evaluation period during which such an employee is transferred, merit pay determinations for that employee shall be based on the factors in section 5402(b)(2) of such title as appraised in performance appraisals administered by the Civil Aeronautics Board in accordance with chapter 43 of title 5, United States Code, in addition to those administered by the agency to which the employee is transferred.

(b) With the consent of the Civil Aeronautics Board, the head of each agency to which functions are transferred by section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act is authorized to use the services of such officers, employees, and other personnel of the Board for such period of time as may reasonably be needed to facilitate the orderly transfer of such functions.

SAVINGS PROVISIONS

SEC. 12. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any agency or official thereof, or by a court of competent jurisdiction, in the performance of any function which is transferred by section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act from the Civil Aeronautics Board to another agency, and

(2) which are in effect on December 31, 1984,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the head of the agency to which such function is transferred, or other authorized officials, a court of competent jurisdiction, or by operation of law.

(b) The transfers of functions made by section 1601(b) of the Federal Aviation Act of 1958 and section 4 of this Act shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending at the time such transfers take effect before the Civil Aeronautics Board; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if such sections 1601(b) and 4 had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if such sections 1601(b) and 4 had not been enacted.

(c) Except as provided in subsection (e)—

(1) the transfer of any function under section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act shall not affect any suit relating to such function which is commenced prior to the date the transfer takes effect, and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if section 1601(b) of the Federal Aviation Act of 1958 and section 4 of this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Civil Aeronautics Board shall abate by reason of the transfer of any function under section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act. No cause of action by or against the Civil Aeronautics Board, or by or against any officer thereof in his official capacity shall abate by reason of the transfer of any function under section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act.

(e) If, before January 1, 1985, the Civil Aeronautics Board, or officer thereof in his official capacity, is a party to a suit relating to a function transferred by section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act, then such suit shall be continued with the head of the Federal agency to which the function is transferred.

(f) With respect to any function transferred to another agency by section 1601(b) of the Federal Aviation Act of 1958 or by section 4 of this Act and exercised after the effective date of such transfer, reference in any Federal law (other than title XVI of the Federal Aviation Act of 1958) to the Civil Aeronautics Board or the Board (insofar as such term refers to the Civil Aeronautics Board), or to any officer or office of the Civil Aeronautics Board, shall be

deemed to refer to that agency, or other official or component of the agency, in which such function vests.

(g) In the exercise of any function transferred under section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act, the head of the agency to which such function is transferred shall have the same authority as that vested in the Civil Aeronautics Board with respect to such function, immediately preceding its transfer, and actions of the head of such agency in exercising such function shall have the same force and effect as when exercised by the Civil Aeronautics Board.

(h) In exercising any function transferred by section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act, the head of the agency to which such function is transferred shall give full consideration to the need for operational continuity of the function transferred.

DEFINITIONS

SEC. 13. For purposes of this Act—

- (1) the term "agency" has the same meaning such term has in section 551(1) of title 5, United States Code; and
- (2) the term "function" means a function, power, or duty.

ACCESS FOR HANDICAPPED PERSONS

SEC. 14. Section 104 is amended by adding at the end thereof the following new sentence: "In the furtherance of such right, the Board or the Secretary, as the case may be, shall consult with the Architectural and Transportation Barriers Compliance Board established under section 502 of the Rehabilitation Act of 1973, prior to issuing or amending any order, rule, regulation, or procedure that will have a significant impact on the accessibility of commercial airports or commercial air transportation for handicapped persons."

STUDY OF TRANSPORTATION TO AND FROM WASHINGTON DULLES AIRPORT

SEC. 15. (a) The Secretary of Transportation shall study the feasibility of constructing a rail rapid transit line between the West Falls Church, Virginia, station of the Washington, District of Columbia metrorail system and Dulles International Airport in Virginia. The study shall include, but need not be limited to, a study of the feasibility of heavy rail, light rail, monorail, magnetic levitation systems, and any other appropriate transportation systems. The Secretary shall study the feasibility of each such system with and without intermediate stops.

(b) The Secretary shall complete the study required by subsection (a) and transmit the results thereof to Congress not later than one year after the date of enactment of this Act.

AIR SERVICE IN THE STATE OF ALASKA

SEC. 16. (a)(1) Notwithstanding any other provision of law, with respect to air transportation to each of the points in Alaska listed in paragraph (4), essential air transportation for purposes of section

419 of the Federal Aviation Act of 1958 shall neither be specified at a level of service nor operated with aircraft of lesser seating and cargo capacity than provided for in CAB Order 80-1-167 and its Appendices unless otherwise specified under an agreement between the Department of Transportation and the State of Alaska, after consultation with the community affected. This paragraph shall cease to be in effect on January 1, 1987.

(2) Notwithstanding any other provision of law, the total amount of compensation which may be paid under section 419 of the Federal Aviation Act of 1958 with respect to the points in Alaska listed in paragraph (4) shall not exceed \$3,572,778 for each of the fiscal years 1985 and 1986 and shall not exceed \$893,195 for service provided during the period beginning October 1, 1986, and ending at the close of December 31, 1986.

(3) The Secretary of Transportation shall study the feasibility of providing essential air transportation to each of the points in Alaska listed in paragraph (4) with aircraft having a smaller capacity than that required by paragraph (1), the level of compensation which would be required under section 419 of the Federal Aviation Act of 1958 for such transportation, and the impact of using such aircraft on the air transportation system in Alaska. The Secretary shall complete such study and submit a report of the results of such study to Congress not later than January 1, 1986.

(4) The points in Alaska referred to in paragraphs (1), (2), and (3) are Cordova, Yakutat, Gustavus, Petersburg, and Wrangell.

(b) Notwithstanding any other provision of law, no part of the order of the Civil Aeronautics Board in CAB docket number 38961 (CAB Order 84-6-77) shall enter into effect until after December 31, 1984.



EMPLOYEE PROTECTION PROVISIONS OF THE AIRLINE
DEREGULATION ACT OF 1978

SECTION 43 OF THE AIRLINE DEREGULATION ACT OF 1978
(PUBLIC LAW 95-504; 92 STAT. 1750; 49 U.S.C. APP. 1552):
EMPLOYEE PROTECTION

EMPLOYEE PROTECTION PROGRAM

SEC. 43. (a). GENERAL RULE.—(1) The Secretary of Labor shall, subject to such amounts as are provided in appropriation Acts, make monthly assistance payments, or reimbursement payments, in amounts computed according to the provisions of this section, to each individual who the Secretary finds, upon application, to be an eligible protected employee. An eligible protected employee shall be a protected employee who on account of a qualifying dislocation (A) has been deprived of employment, or (B) has been adversely affected with respect to his compensation.

(2) No employee who is terminated for cause shall receive any assistance under this section.

(b) MONTHLY ASSISTANCE COMPUTATION.—(1) An eligible protected employee shall, subject to such amounts as are provided in appropriation Acts, receive a monthly assistance payment, for each month in which he is an eligible protected employee, in an amount computed by the Secretary. The Secretary, after consultation with the Secretary of Transportation, shall, by rule, promulgate guidelines to be used by him in determining the amount of each monthly assistance payment to be made to a member of each craft and class of protected employees, and what percentage of salary such payment shall constitute for each applicable class or craft of employees. In computing such amounts for any individual protected employee, the Secretary shall deduct from such amounts the full amount of any unemployment compensation received by the protected employee.

(2) If an eligible protected employee is offered reasonably comparable employment and such employee does not accept such employment, then such employee's monthly assistance payment under this section shall be reduced to an amount which such employee would have been entitled to receive if such employee had accepted such employment. If the acceptance of such comparable employment would require relocation, such employee may elect not to relocate and, in lieu of all other benefits provided herein, to receive the monthly assistance payments to which he would be entitled if this paragraph were not in effect, except that the total number of such payments shall be the lesser of three or the number remaining pursuant to the maximum provided in subsection (e).

(c) ASSISTANCE FOR RELOCATION.—If an eligible protected employee relocates in order to obtain other employment, such employee shall, subject to such amounts as are provided in appropriation Acts, receive reasonable moving expenses (as determined by the Secretary) for himself and his immediate family. In addition, such

employee shall, subject to such amounts as are provided in appropriation Acts, receive reimbursement payments for any loss resulting from selling his principal place of residence at a price below its fair market value (as determined by the Secretary) or any loss incurred in cancelling such employee's lease agreement or contract of purchase relating to his principal place of residence.

(d) **DUTY TO HIRE PROTECTED EMPLOYEES.**—(1) Each person who is a protected employee of an air carrier which is subject to regulation by the Civil Aeronautics Board who is furloughed or otherwise terminated by such an air carrier (other than for cause) prior to the last day of the 10-year period beginning on the date of enactment of this section shall have first right of hire, regardless of age, in his occupational specialty, by any other air carrier hiring additional employees which held a certificate issued under section 401 of the Federal Aviation Act of 1958 prior to such date of enactment. Each such air carrier hiring additional employees shall have a duty to hire such a person before they hire any other person, except that such air carrier may recall any of its own furloughed employees before hiring such a person. Any employee who is furloughed or otherwise terminated (other than for cause), and who is hired by another air carrier under the provisions of this subsection, shall retain his rights of seniority and right of recall with the air carrier that furloughed or terminated him.

(2) The Secretary shall establish, maintain, and periodically publish a comprehensive list of jobs available with air carriers certificated under section 401 of the Federal Aviation Act of 1958. Such list shall include that information and detail, such as job descriptions and required skills, the Secretary deems relevant and necessary. In addition to publishing the list, the Secretary shall make every effort to assist an eligible protected employee in finding other employment. Any individual receiving monthly assistance payments, moving expenses, or reimbursement payments under this section shall, as a condition to receiving such expenses or payments, cooperate fully with the Secretary in seeking other employment. In order to carry out his responsibilities under this subsection, the Secretary may require each such air carrier to file with the Secretary the reports, data, and other information necessary to fulfill his duties under this subsection.

(3) In addition to making monthly assistance or reimbursement payments under this section, the Secretary shall encourage negotiations between air carriers and representatives of eligible protected employees with respect to rehiring practices and seniority.

(e) **PERIOD OF MONTHLY ASSISTANCE PAYMENTS.**—(1) Monthly assistance payments computed under subsection (b) for a protected employee who has been deprived of employment shall be made each month until the recipient obtains other employment, or until the end of the 72 months occurring immediately after the month such payments were first made to such recipient, whichever first occurs.

(2) Monthly assistance payments computed under subsection (b) for a protected employee who has been adversely affected relating to his compensation shall be paid for no longer than 72 months, so

long as the total number of monthly assistance payments made under this section for any reason do not exceed 72.

(f) **RULES AND REGULATIONS.**—(1) The Secretary may issue, amend, and repeal such rules and regulations as may be necessary for the administration of this section.

(2) The rule containing the guidelines which is required to be promulgated pursuant to subsection (b) of this section and any other rules or regulations which the Secretary deems necessary to carry out this section shall be promulgated within six months after the date of enactment of this section.

(3) The Secretary shall not issue any rule or regulation as a final rule or regulation under this section until 30 legislative days after it has been submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives. Any rule or regulation issued by the Secretary under this section as a final rule or regulation shall be submitted to the Congress and shall become effective 60 legislative days after the date of such submission, unless during that 60-day period either House adopts a resolution stating that that House disapproves such rules or regulations, except that such rules or regulations may become effective on the date, during such 60-day period, that a resolution has been adopted by both Houses stating that the Congress approves of them.

(4) For purposes of this subsection, the term "legislative day" means a calendar day on which both Houses of Congress are in session.

(g) **AIRLINE EMPLOYEES PROTECTIVE ACCOUNT.**—All payments under this section shall be made by the Secretary from a separate account maintained in the Treasury of the United States to be known as the Airline Employees Protective Account. There are authorized to be appropriated to such account annually, beginning with the fiscal year ending September 30, 1979, such sums as are necessary to carry out the purposes of this section, including amounts necessary for the administrative expenses of the Secretary related to carrying out the provisions of this section.

(h) **DEFINITIONS.**—For the purposes of this section—

(1) The term "protected employee" means a person who, on the date of enactment of this section, has been employed for at least 4 years by an air carrier holding a certificate issued under section 401 of the Federal Aviation Act of 1958. Such term shall not include any members of the board of directors or officers of a corporation.

(2) The term "qualifying dislocation" means a bankruptcy or major contraction of an air carrier holding a certificate under section 401 of the Federal Aviation Act of 1958, occurring during the first 10 complete calendar years occurring after the date of enactment of the Airline Deregulation Act of 1978, the major cause of which is the change in regulatory structure provided by the Airline Deregulation Act of 1978, as determined by the Civil Aeronautics Board.

(3) The term "Secretary" means the Secretary of Labor.

(4) The term "major contraction" means a reduction by at least 7½ percent of the total number of full-time employees of

an air carrier within a 12-month period. Any particular reduction of less than $7\frac{1}{2}$ percent may be found by the Board to be part of a major contraction of an air carrier if the Board determines that other reductions are likely to occur such that within a 12-month period in which such particular reduction occurs the total reduction will exceed $7\frac{1}{2}$ percent. In computing a $7\frac{1}{2}$ -percent reduction under this paragraph, the Board shall not include employees who are deprived of employment because of a strike or who are terminated for cause.

(i) **TRANSFER OF AUTHORITY OF THE BOARD.**—The authority of the Board under this section is transferred to the Department of Transportation on January 1, 1985.

(j) **TERMINATION.**—The provisions of this section shall terminate on the last day the Secretary is required to make a payment under this section.

AIRPORT AND AIRWAY IMPROVEMENT ACT OF 1982

AIRPORT AND AIRWAY IMPROVEMENT ACT OF 1982

Title V of Public Law 97-248; 96 Stat. 671; 49 U.S.C. App. 2201 et seq.

TITLE V—AIRPORT AND AIRWAY IMPROVEMENT

SECTION 501. SHORT TITLE.

This title may be cited as the "Airport and Airway Improvement Act of 1982".

SEC. 502. DECLARATION OF POLICY.

(a) IN GENERAL.—The Congress hereby finds and declares that—

(1) the safe operation of the airport and airway system will continue to be the highest aviation priority;

(2) the continuation of airport and airway improvement programs and more effective management and utilization of the Nation's airport and airway system are required to meet the current and projected growth of aviation and the requirements of interstate commerce, the Postal Service, and the national defense;

(3) this title should be administered in a manner to provide adequate navigation aids and airport facilities, including reliever airports and reliever heliports, for points where scheduled commercial air service is provided;

(4) this title should be administered in a manner consistent with a comprehensive airspace system plan to maximize the use of safety facilities, with highest priority for commercial service airports, including but not limited to, the goal of installing, operating, and maintaining, to the extent possible under available funds and given other safety needs, a precision approach system, a vertical visual guidance system, and a full approach light system for each primary runway, grooving, or friction treatment of all primary and secondary runways, a nonprecision instrument approach for all secondary runways, runway end identifier lights on all runways that do not have an approach light system, electronic or visual vertical guidance on all runways, distance-to-go signs for each primary and secondary runway, a surface movement radar system at each category III airport, a taxiway lighting and sign system, runway edge lighting and marking, and radar approach coverage for all airport terminal areas;

(5) all airport and airway programs should be administered in a manner consistent with the provisions of sections 102 and

103 of the Federal Aviation Act of 1958, with due regard for the goals expressed therein of fostering competition, preventing unfair methods of competition in air transportation, maintaining essential air transportation, and preventing unjust and discriminatory practices;

(6) reliever airports make an important contribution to the efficient operation of the airport and airway system, and special emphasis should be given to their development;

(7) cargo hub airports play a critical role in the movement of commerce through the airport and airway system and appropriate provisions should be made to facilitate the development and enhancement of such airports;

(8) aviation facilities should be constructed and operated with due regard to minimizing current and projected noise impacts on nearby communities;

(9) the Federal administrative requirements placed upon airport sponsors can be reduced and simplified through the use of a single project application to cover all airport improvement projects contained in the airport's annual expenditure program;

(10) it is in the national interest to develop in metropolitan areas an integrated system of airports designed to provide expeditious access and maximum safety;

(11) airport construction and improvement projects which increase the capacity of facilities to accommodate passenger and cargo traffic, thereby increasing safety and efficiency and reducing delays, should be undertaken to the maximum feasible extent;

(12) it is in the national interest to ensure that nonaviation usage of navigable airspace be accommodated but not allowed to decrease the safety and capacity of the airspace and airport system; and

(13) artificial restrictions on airport capacity are not in the public interest and should not be imposed to alleviate air traffic delays unless other reasonably available and less burdensome alternatives have first been attempted.

(b) **TRANSPORTATION PLANNING.**—It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with State and local officials in the development of airport plans and programs which are formulated on the basis of overall transportation needs and coordinated with other transportation planning with due consideration to comprehensive long-range land-use and access plans and overall social, economic, environmental, system performance, and energy conservation goals and objectives. The process shall be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems. [49 U.S.C. App. 2201]

SEC. 503. DEFINITIONS.

(a) **IN GENERAL.**—As used in this title—

(1) "Airport" (A) means any area of land or water which is used, or intended for use, for the landing and takeoff of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon; and (B) includes any heliport

(2) "Airport development" means any of the following activities, if undertaken by the sponsor, owner or operator of a public-use airport:

(A) any work involved in constructing, reconstructing, repairing, or improving a public-use airport or portion thereof, including—

(i) the removal, lowering, relocation, and marking and lighting of airport hazards; and

(ii) the preparation of plans and specifications, including field investigations incidental thereto;

(B) any acquisition or installation at or by a public-use airport of—

(i) navigation and other aids (including, but not limited to, precision approach systems) used by aircraft for landing at or taking off from such airport, including any necessary site preparation thereby required;

(ii) safety or security equipment required by the Secretary by rule or regulation for the safety or security of persons and property at such airport, or specifically approved by the Secretary as contributing significantly to the safety or security of persons and property at such airport;

(iii) snow removal equipment;

(iv) aviation-related weather reporting equipment;

(v) equipment to measure runway surface friction;

or

(vi) fire fighting and rescue equipment at any airport which serves scheduled passenger operations of air carrier aircraft designed for more than 20 passenger seats; and

(C) any acquisition of land or of any interest therein, or of any easement through or other interest in airspace, including land for future airport development, which is necessary to permit any airport development described in subparagraph (A) or (B) of this paragraph or to remove, mitigate, prevent, or limit the establishment of airport hazards.

(3) "Airport hazard" means any structure or object of natural growth located on or in the vicinity of a public-use airport, or any use of land near such an airport, which obstructs the airspace required for the flight of aircraft in landing or taking off at such airport or is otherwise hazardous to such landing or taking off of aircraft.

(4) "Airport planning" means planning as defined by such regulations as the Secretary shall prescribe, and includes integrated airport system planning.

(5) "Commercial service airport" means a public airport which is determined by the Secretary to enplane annually 2,500 or more passengers and receive scheduled passenger service of aircraft.

(6) "Government aircraft" means aircraft owned and operated by the United States.

(7) "Integrated airport system planning" means the initial as well as continuing development for planning purposes of information and guidance to determine the extent, type, nature, location, and timing of airport development needed in a specific area to establish a viable, balanced, and integrated system of public-use airports. It includes identification of system needs, development of estimates of systemwide development costs, and the conduct of such studies, surveys, and other planning actions, including those related to airport access, as may be necessary to determine the short-, intermediate-, and long-range aeronautical demands required to be met by a particular system of airports. It also includes the establishment by a State of standards, other than standards for safety of approaches, for airport development at public-use airports which are not primary airports.

(8) "Landing area" means that area used or intended to be used for the landing, takeoff, or surface maneuvering of aircraft.

(9) "Landed weight" means the weight of aircraft providing scheduled and nonscheduled service of only property (including mail) in intrastate, interstate, and foreign air transportation, as shall be determined by the Secretary pursuant to such regulations as the Secretary may prescribe.

(10) "Passengers enplaned" means domestic, territorial, and international revenue passenger enplanements in the States in scheduled and nonscheduled service of aircraft in intrastate, interstate, and foreign commerce as shall be determined by the Secretary pursuant to such regulations as the Secretary may prescribe and includes passengers on board international flights which transit an airport located in the 48 contiguous States for nontraffic purposes.

(11) "Planning agency" means any planning agency designated by the Secretary which is authorized by the laws of the State or States or political subdivisions concerned to engage in areawide planning for the areas in which assistance under this title is to be used.

(12) "Primary airport" means a commercial service airport which is determined by the Secretary to have more than 10,000 passengers enplaned annually.

(13) "Project" means a project (or separate projects submitted together) for the accomplishment of airport development or airport planning, including the combined submission of all projects which are to be undertaken at an airport in a fiscal year.

(14) "Project costs" means any costs involved in accomplishing a project.

(15) "Project grant" means a grant of funds by the Secretary to a sponsor for the accomplishment of one or more projects.

(16) "Public agency" means a State or any agency of a State, a municipality or other political subdivision of a State, a tax-supported organization, or an Indian tribe or pueblo.

(17) "Public airport" means any airport which is used or to be used for public purposes, under the control of a public agency, the landing area of which is publicly owned.

(18) "Public-use airport" means—

(A) any public airport,

(B) any privately owned reliever airport, and

(C) any privately owned airport which is determined by the Secretary to enplane annually 2,500 or more passengers and receive scheduled passenger service of aircraft, which is used or to be used for public purposes.

(19) "Reliever airport" means an airport designated by the Secretary as having the function of relieving congestion at a commercial service airport and providing more general aviation access to the overall community.

(20) "Reliever heliport" means a heliport designated by the Secretary as having the function of relieving congestion at a commercial service airport, by means of diverting potential fixed-wing enplaned passengers to helicopter carriers.

(21) "Secretary" means the Secretary of Transportation.

(22) "Sponsor" means (A) any public agency which, either individually or jointly with one or more other public agencies, submits to the Secretary, in accordance with this title, an application for financial assistance, and (B) any private owner of a public-use airport who submits to the Secretary, in accordance with this title, an application for financial assistance for such airport.

(23) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and Guam.

(24) "Trust Fund" means the Airport and Airway Trust Fund established by section 9502 of the Internal Revenue Code of 1954.

(25) "United States share" means that portion of the project costs of projects for airport development or airport planning approved pursuant to section 509 of this title which is to be paid from funds made available for the purposes of this title.

(b) AMOUNTS MADE AVAILABLE.—Whenever in this title reference is made to the amount made available for a fiscal year under section 505 of this title, such reference shall mean the amount made available for obligation under subsection (a) of section 505 for that fiscal year as reduced or limited by any Act of Congress enacted after the date of enactment of this title. [49 U.S.C. App. 2202]

SEC. 504. NATIONAL AIRPORT AND AIRWAY SYSTEM PLANS.

(a) FORMULATION OF AIRPORT PLAN.—

(1) PUBLICATION, CONTENTS, AND REVIEW OF PLAN.—Not later than two years after the date of enactment of this title and

every two years thereafter, the Secretary shall publish the status of the existing national airport system plan to provide for the development of public-use airports in the United States. The plan shall include the type and estimated cost of eligible airport development considered by the Secretary to be necessary to provide a safe, efficient, and integrated system of public-use airports to anticipate and meet the needs of civil aeronautics, to meet requirements in support of the national defense as determined by the Secretary of Defense, and to meet identified needs of the Postal Service. Airport development identified by this plan shall not be limited to the requirements of any classes or categories of public-use airports. In reviewing and revising the plan, the Secretary shall consider the needs of all segments of civil aviation, and take into consideration, among other things, the relationship of each airport to (1)¹ the rest of the transportation system in the particular area, (2)¹ the forecasted technological developments in aeronautics, and (3)¹ developments forecasted in other modes of intercity transportation. After the date of enactment of this title, the revised national airport system plan shall be known as the national plan of integrated airport systems.

(2) SPECIAL REVIEW.—As soon as feasible following the date of the enactment of this paragraph, the Secretary shall, in reviewing and revising the plan, take into account tall structures which reduce safety or airport capacity and make every reasonable effort to address the legitimate needs of air cargo operations, STOL/VSTOL aircraft operations, and rotary wing aircraft operations.

(b) FORMULATION OF AIRWAY PLAN.—(1) The Administrator of the Federal Aviation Administration shall prepare (subject to the requirements of section 506(f) of this title) and submit to the Congress, not later than ninety days after the date of enactment of this title, a national airways system plan. The Administrator shall review, revise, and publish such plan before the beginning of each fiscal year thereafter. The plan shall set forth, for a ten-year period, the research, engineering, and development programs and the facilities and equipment considered by the Administrator necessary for a system of airways, air traffic services, and navigation aids which will meet the forecasted needs of civil aeronautics, meet requirements in support of the national defense as determined by the Secretary of Defense, and provide the highest degree of safety in air commerce. In addition, such plan shall set forth—

(A) for the first two years of the plan, detailed annual estimates of (i) the number, type, location, and cost of acquisition, operation, and maintenance of required facilities and services, (ii) the cost of research, engineering, and development required to improve safety, system capacity, and efficiency, and (iii) manpower levels required for all the activities described in this subparagraph;

(B) for the third, fourth, and fifth years of the plan, estimates of the total cost of each major program for such three-

¹ Public Law 100-223 did not redesignate these references.

year period, and any additional major research programs, acquisition of systems and facilities, and changes in manpower levels that may be required to meet long-range objectives and that may have significant impact on future funding requirements; and

(C) a ten-year investment plan which considers long-range objectives considered by the Administrator to be necessary to ensure that safety is given the highest priority in providing for a safe and efficient airway system and to meet the current and projected growth of aviation and the requirements of interstate commerce, the Postal Service, and the national defense.

(2) On or before the first day of April of each year the Secretary shall report to the Congress on the operations of the national airways system during the last completed fiscal year. The report shall include a review of the operations of the Federal Aviation Administration, including, but not limited to, a detailed report on programs intended to improve the safety of flight operations and the capacity and efficiency of the national airways system, any significant problems encountered in these programs, a summary of funds committed in each major program area, and a report on amounts appropriated but not expended for such programs.

(c) CONSULTATION WITH FEDERAL AND PUBLIC AGENCIES AND AVIATION COMMUNITY.—In reviewing and revising the national airport system plan, the Secretary shall consult, to the extent feasible and as appropriate, with other Federal and public agencies, and with the aviation community.

(d) CONSULTATION WITH DEPARTMENT OF DEFENSE.—

(1) CIVIL USE OF DOMESTIC MILITARY AIRPORTS.—The Department of Defense shall make domestic military airports and airport facilities available for civil use to the maximum extent feasible. In advising the Secretary of national defense requirements pursuant to subsection (a) of this section, the Secretary of Defense shall indicate the extent to which domestic military airports and airport facilities will be available for civil use.

(2) SPECIAL USE AIRSPACE.—

(A) REVIEW.—The Secretary and the Secretary of Defense, in consultation with aviation users, shall jointly conduct a national review of the need and utilization of special use airspace with a view to determining its impact on civil aviation operations and on the quality of the environment.

(B) REPORT.—Not later than 18 months after the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987, the Secretary and the Secretary of Defense shall report to Congress the results of the review conducted under subparagraph (A), together with their recommendations. [49 U.S.C. App. 2203]

SEC. 505. AIRPORT IMPROVEMENT PROGRAM.

(a) AIRPORT DEVELOPMENT AND AIRPORT PLANNING.—In order to maintain a safe and efficient nationwide system of public-use airports to meet the present and future needs of civil aeronautics, the Secretary is authorized to make grants from the Trust Fund for

airport development and airport planning by project grants in accordance with the provisions of this title. The aggregate amounts which shall be available after September 30, 1981, to the Secretary for such grants and for grants for airport noise compatibility planning under section 103(b) of the Aviation Safety and Noise Abatement Act of 1979 and for carrying out noise compatibility programs or parts thereof under section 104(c) of such Act shall be \$5,116,700,000 of which \$475,000,000 shall be credited to the supplementary discretionary fund established by section 507(a)(3)(B) for fiscal years ending before October 1, 1987, \$6,816,700,000 for fiscal years ending before October 1, 1988, \$8,516,700,000 for fiscal years ending before October 1, 1989, \$10,216,700,000 for fiscal years ending before October 1, 1990, \$12,016,700,000 for fiscal years ending before October 1, 1991, and \$13,816,700,000 for fiscal years ending before October 1, 1992. Those amounts credited to the supplementary discretionary fund pursuant to this subsection shall not be subject to any of the apportionments or distributions set forth in sections 507(a)(1), 507(a)(2), 507(a)(3), 507(c), and 508(d) of this title.

(b) **OBLIGATIONAL AUTHORITY.**—(1) The Secretary is authorized to incur obligations to make grants from funds made available under subsection (a) of this section, and such authority shall exist with respect to funds available for the making of grants for any fiscal year or part thereof pursuant to subsection (a) immediately after such funds are apportioned pursuant to section 507(a) of this title. No such obligation shall be incurred by the Secretary after September 30, 1987, except that nothing in this section shall preclude the obligation by grant agreement of apportioned funds which remain available pursuant to section 508(a) of this title after such date.

(2) No obligation shall be incurred by the Secretary for airport development at a privately owned public-use airport unless the Secretary receives appropriate assurances that such airport will continue to function as a public-use airport during the economic life (which in no case shall be less than ten years) of any facility at such airport that was developed with Federal financial assistance under this title.

(c) **NOISE ABATEMENT PROJECTS TO BE CONSIDERED AS AIRPORT DEVELOPMENT FOR FISCAL YEAR 1982.**—For purposes of amounts apportioned for fiscal year 1982, airport development shall be considered to include any of the following activities, if undertaken by the sponsor, owner, or operator of a public-use airport:

(1) any acquisition or installation of the following items for improving noise compatibility at a public-use airport:

(A) noise suppressing equipment, physical barriers, or landscaping, for the purpose of diminishing the effect of aircraft noise on any area adjacent to such airport; and

(B) land, including land associated with future airport development, or any interest therein, or any easement through or other interest in airspace, necessary to insure that such land is used only for purposes which are compatible with the noise levels attributable to the operation of such airport; and

(2) any project to carry out an approved airport noise compatibility program, or part thereof, approved by the Secretary

pursuant to section 104(b) of the Aviation Safety and Noise Abatement Act of 1979.

(d) **DISADVANTAGED BUSINESS ENTERPRISES.—**

(1) **GENERAL RULE.**—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available under subsection (a) in a fiscal year beginning after September 30, 1987, shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(2) **DEFINITIONS.**—For purposes of this subsection—

(A) **SMALL BUSINESS CONCERN.**—The term “small business concern” has the meaning such term has under section 3 of the Small Business Act (15 U.S.C. 632); except that such term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of \$14,000,000, as adjusted by the Secretary for inflation.

(B) **SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.**—The term “socially and economically disadvantaged individuals” has the meaning such term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged for purposes of this subsection.

(3) **ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.**—Each State or airport sponsor shall annually survey and compile a list of the small business concerns referred to in paragraph (1) and the location of such concerns in the State.

(4) **UNIFORM CERTIFICATION.**—The Secretary shall establish minimum uniform criteria for State governments and airport sponsors to use in certifying whether a concern qualifies for purposes of this subsection. Such minimum uniform criteria shall include but not be limited to on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred. [49 U.S.C. App. 2204]

SEC. 506. AIRWAY IMPROVEMENT PROGRAM.

(a) **AIRWAY FACILITIES AND EQUIPMENT.—**

(1) **GENERAL AUTHORIZATION.**—For the purposes of acquiring, establishing, and improving air navigation facilities under section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1348(b)), there are authorized to be appropriated from the Trust Fund for fiscal years beginning after September 30, 1981, aggregate amounts not to exceed \$6,327,000,000 for fiscal years ending before October 1, 1987, \$7,704,000,000 for fiscal years ending before October 1, 1988, \$9,434,000,000 for fiscal years ending before October 1, 1989, and \$11,625,200,000 for fiscal years ending before October 1, 1990. Amounts appropriated under this subsection shall remain available until expended.

(2) PURCHASE AND INSTALLATION OF INSTRUMENT LANDING SYSTEMS.—

(A) MINIMUM OBLIGATION LEVEL.—Of amounts made available under paragraph (1) after September 30, 1987, the Secretary shall obligate not less than \$27,000,000 in fiscal year 1988, \$30,000,000 in fiscal year 1989, and \$35,000,000 in fiscal year 1990 for the purposes of purchasing and installing instrument landing systems at airports under section 307(b) of the Federal Aviation Act of 1958.

(B) PRIMARY AND RELIEVER AIRPORTS.—75 percent of amounts obligated pursuant to subparagraph (A) in a fiscal year shall be made available for the purchase and installation of instrument landing systems at primary airports and reliever airports.

(C) OTHER AIRPORTS.—25 percent of amounts obligated pursuant to subparagraph (A) in a fiscal year shall be made available for the purchase and installation of instrument landing systems at airports other than primary airports and reliever airports.

(3) SITE PREPARATION WORK.—The costs of site preparation work associated with acquisition, establishment, or improvement of air navigation facilities by the Secretary pursuant to section 307(b) of the Federal Aviation Act of 1958 shall be charged to appropriated funds available to the Secretary for that purpose pursuant to paragraph (1) of this subsection. Nothing in this title shall preclude the Secretary from providing, in a grant agreement or other agreement with an airport owner or sponsor, for the performance of such site preparation work in connection with airport development, subject to payment or reimbursement for such site preparation work by the Secretary from such appropriated funds.

(b) RESEARCH, ENGINEERING AND DEVELOPMENT, AND DEMONSTRATIONS.—

(1) DEMONSTRATION PROJECTS.—The Secretary is authorized to carry out under section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353) such demonstration projects as the Secretary determines necessary in connection with research and development activities under such section.

(2) GENERAL AUTHORIZATION.—For research, engineering and development, and demonstration projects and activities under section 312 of the Federal Aviation Act of 1958 and paragraph (1) of this subsection, there is authorized to be appropriated from the Trust Fund—

(A) for fiscal year 1988—

(i) \$127,192,000 solely for air traffic control projects and activities;

(ii) \$7,743,000 solely for air traffic control advanced computer projects and activities;

(iii) \$9,818,000 solely for navigation projects and activities;

(iv) \$21,957,000 solely for aviation weather projects and activities;

(v) \$6,307,000 solely for aviation medicine projects and activities of which not less than \$250,000 shall be made available for research and development relating to equipment designed to provide improved access by handicapped persons to commercial aircraft;

(vi) \$24,988,000 solely for aircraft safety projects and activities; and

(vii) \$3,000,000 solely for environmental projects and activities;

(B) for fiscal year 1989—

(i) \$135,866,000 solely for air traffic control projects and activities;

(ii) \$15,716,000 solely for air traffic control advanced computer projects and activities;

(iii) \$11,395,000 solely for navigation projects and activities;

(iv) \$21,797,000 solely for aviation weather projects and activities;

(v) \$6,613,000 solely for aviation medicine projects and activities;

(vi) \$21,013,000 solely for aircraft safety projects and activities; and

(vii) \$2,600,000 solely for environmental projects and activities,

except that not less than 15 percent of the amount appropriated pursuant to this subparagraph shall be for long-term research projects; and

(C) for fiscal year 1990—

(i) \$25,000,000 solely for human factors research projects and activities; and

(ii) \$221,530,000 for all other research projects and activities,

except that not less than 15 percent of the amount appropriated pursuant to this subparagraph shall be for long-term research projects.

As used in this paragraph, the term "long-term research project" means a research project which is identified as a discrete project in the aviation research plan required by section 312(d)(1) of the Federal Aviation Act of 1958 and which is unlikely to result in a final rulemaking action within 5 years, or in initial installation of operational equipment within 10 years, after the date of the commencement of such project.

(3) AUTHORITY TO TRANSFER FUNDS.—

(A) **UNLIMITED.**—Funds may be transferred among the projects and activities listed in paragraph (2), except that the net funds transferred to or from any category of such projects and activities listed in paragraph (2) in any fiscal year may not exceed 10 percent of the amount authorized for such category by paragraph (2) for such fiscal year.

(B) **AFTER NOTICE.**—In addition, the Secretary may propose transfers to or from any category of projects and activities listed in paragraph (2) exceeding 10 percent of the amount authorized for such category. An explanation of

the proposed transfer must be transmitted in writing to the Committee on Science, Space, and Technology and the Committee on Appropriations of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate. The proposed transfer may be made only when—

(i) 30 calendar days have passed after transmission of such explanation; or

(ii) each such Committee has transmitted to the Secretary written notice that such Committee has no objection to the proposed transfer.

(4) FUNDING FOR ENHANCING AIRPORT CAPACITY.—

(A) GENERAL RULE.—Notwithstanding any other provision of this subsection, of funds made available under paragraph (2) in each of fiscal years 1988, 1989, and 1990, not less than \$25,000,000 per fiscal year is authorized to be appropriated for research and development on preserving and enhancing airport capacity (including research and development on improvements to airport design standards, airport maintenance, airport safety, airport operations, and airport environmental concerns) under section 312 of the Federal Aviation Act of 1958.

(B) REPORT.—Not later than 60 days after the last day of each of fiscal years 1988, 1989, and 1990, the Administrator of the Federal Aviation Administration shall transmit to the Committee on Science, Space, and Technology and the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on expenditures made by the Administrator for research and development under subparagraph (A) in such fiscal year.

(5) PERIOD OF AVAILABILITY.—Amounts appropriated under this subsection shall remain available until expended.

(c) OTHER EXPENSES.—

(1) DESCRIPTION.—The balance of the moneys available in the Trust Fund may be appropriated for (A) costs of services provided under international agreements relating to the joint financing of air navigation services which are assessed against the United States Government, and (B) direct costs incurred by the Secretary to flight check, operate, and maintain air navigation facilities referred to in subsection (a) of this section in a safe and efficient manner.

(2) FISCAL YEARS 1982–1987.—The amount appropriated from the Trust Fund for the purposes of clauses (A) and (B) of paragraph (1) of this subsection for fiscal year 1982 may not exceed \$800,000,000, and for any fiscal year beginning after September 30, 1982, and ending before October 1, 1987, may not exceed the amount made available for purposes of section 505 for that fiscal year multiplied by a factor equal to 1.83 in the case of fiscal year 1983; 1.25 in the case of fiscal year 1984; 1.28 in the case of fiscal year 1985; 1.28 in the case of fiscal year 1986; and

1.34 in the case of fiscal year 1987. The amount authorized to be appropriated from the Trust Fund under this paragraph for any fiscal year shall be reduced by an amount equal to two times the excess, if any, of (A) the portion of the amount authorized to be appropriated under subsection (a) of this section for such fiscal year which was not authorized to be appropriated for any previous fiscal year, over (B) the amount appropriated under such subsection for such fiscal year.

(3) FISCAL YEARS 1988-1990.—

(A) MAXIMUM AMOUNT APPROPRIATED.—Subject to subparagraph (B) of this paragraph, the amount appropriated from the Trust Fund for the purposes of clauses (A) and (B) of paragraph (1) of this subsection for each of fiscal years 1988, 1989, and 1990 may not exceed 50 percent of the amount of funds made available under section 505 and subsections (a) and (b) of this section for such fiscal year.

(B) REDUCTION IN MAXIMUM AMOUNT.—The maximum amount which may be appropriated from the Trust Fund for the purposes of clauses (A) and (B) of paragraph (1) for any fiscal year, as determined under subparagraph (A) of this paragraph, shall be reduced by an amount equal to 2 times the excess, if any, of—

(i) \$3,278,000,000 in the case of fiscal year 1988, \$3,445,000,000 in the case of fiscal year 1989, \$3,863,000,000 in the case of fiscal year 1990, \$3,770,000,000 in the case of fiscal year 1991, and \$3,778,000,000 in the case of fiscal year 1992, over

(ii) the amount made available under section 505 and subsections (a) and (b) of this section for such fiscal year.

(C) INCREASE IN MAXIMUM AMOUNT.—Subject to subparagraph (D), the amount authorized to be appropriated from the Trust Fund under this paragraph for any fiscal year shall be increased by an amount equal to 2 times the excess, if any, of—

(i) the amount made available under section 505 and subsections (a) and (b) of this section for such fiscal year, over

(ii) the portion of the amount authorized under such section and subsections for such fiscal year which was not authorized for any previous fiscal year.

(D) LIMITATION ON INCREASES.—The aggregate amount of increases in the amount authorized to be appropriated from the Trust Fund under this paragraph may not exceed the aggregate amount of reductions made under subparagraph (B) of this paragraph.

(d) WEATHER SERVICES.—The Secretary is authorized to reimburse the National Oceanic and Atmospheric Administration from the funds authorized in subsection (c) for fiscal years beginning after September 30, 1982, for the cost of providing the Federal Aviation Administration with weather reporting services. Expenditures for the purposes of carrying out this subsection shall be limit-

ed to \$34,998,000 for fiscal year 1987 and \$30,000,000 per fiscal year for each of fiscal years 1988, 1989, and 1990.

(e) **PRESERVATION OF FUNDS AND PRIORITY FOR AIRPORT AND AIRWAY PROGRAMS.**—(1) Notwithstanding any other provision of law to the contrary, no amounts may be appropriated from the Trust Fund to carry out any program or activity under the Federal Aviation Act of 1958, except programs or activities referred to in this section and section 505.

(2) Amounts equal to the amounts authorized for each fiscal year by section 505 of this title and subsections (a), (b), (c), and (d) of this section shall remain available in the Trust Fund until appropriated for the purposes described in such subsections.

(3) No amounts in the Trust Fund may be appropriated for any fiscal year to carry out administrative expenses of the Department of Transportation or of any unit thereof except to the extent authorized by subsection (c) of this section.

(4) No provision of law, except for a statute enacted after the date of enactment of this title which expressly limits the application of this paragraph, shall impair the authority of the Secretary to obligate to an airport by grant agreement in any fiscal year the unobligated balance of amounts which were apportioned in prior fiscal years and which remain available for approved airport development projects pursuant to section 508(a) of this title, in addition to the amounts authorized for that fiscal year by section 505.

(5) No provision of law shall be construed as authorizing the Secretary to obligate or expend any amounts appropriated from the Trust Fund for the purposes described in subsection (c) in any fiscal year after September 30, 1992, unless the provision expressly amends the provisions of and the formulas in subsection (c) of this section.

(f) **TRANSMITTAL OF BUDGET ESTIMATES.**—Whenever the Administrator of the Federal Aviation Administration submits or transmits any budget estimate, budget request, supplemental budget estimate, or other budget information, legislative recommendation, or comment on legislation to the Secretary, the President of the United States, or to the Office of Management and Budget pertaining to funds authorized in subsection (a) or (b) of this section, it shall concurrently transmit a copy thereof to the Speaker of the House of Representatives, the Committees on Public Works and Transportation and Appropriations of the House of Representatives, the President of the Senate, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate. [49 U.S.C. App. 2205]

SEC. 507. APPORTIONMENT OF FUNDS.

(a) **APPORTIONMENT.**—On the first day of each fiscal year for which any amount is authorized to be obligated for the purposes of section 505 of this title, the amount made available for the fiscal year under such section and not previously apportioned shall be apportioned by the Secretary as follows:

(1) **PRIMARY AIRPORTS.**—To the sponsor of each primary airport, as follows:

(A) \$7.80 for each of the first 50,000 passengers enplaned at the airport;

(B) \$5.20 for each of the next 50,000 passengers enplaned at the airport;

(C) \$2.60 for each of the next 400,000 passengers enplaned at the airport; and

(D) \$0.65 for each additional passenger enplaned at the airport.

(2) **CARGO SERVICE AIRPORTS.**—To the sponsors of airports which are served by aircraft providing air transportation of only property (including mail) with an aggregate annual landed weight in excess of 100,000,000 pounds, 3 percent of the amount made available under section 505 for such fiscal year (but not to exceed \$50,000,000) as follows: In the proportion which the aggregate annual landed weight of all such aircraft landing at each such airport bears to the total aggregate annual landed weight of all such aircraft landing at all such airports.

(3) **STATES.**—To the States, 12 percent of the amount made available under section 505 for such fiscal year, as follows:

(A) **INSULAR AREAS.**—For airports, 1 percent of such amounts to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(B) **STATES.**—For airports, other than primary airports and airports described in section 508(d)(3), $\frac{1}{2}$ of the remaining 99 percent in the proportion which the population of each State (other than a State to which subparagraph (A) applies) bears to the total population of all such States and $\frac{1}{2}$ of the remaining 99 percent in the proportion which the area of each such State bears to the total area of all such States.

(b) **SPECIAL RULES.**—

(1) **MAXIMUM AND MINIMUM AMOUNTS FOR PRIMARY AIRPORTS.**—The Secretary shall not apportion less than \$300,000 nor more than \$16,000,000 under subsection (a)(1) to an airport sponsor for any primary airport for any fiscal year.

(2) **LIMITATION ON TOTAL APPORTIONMENTS TO PRIMARY AND CARGO SERVICE AIRPORTS.**—

(A) **GENERAL RULE.**—In no event shall the total amount of all apportionments under subsections (a)(1) and (a)(2) for any fiscal year exceed 49.5 percent of the amount authorized to be obligated for such fiscal year for the purposes of section 505 of this title.

(B) **DISTRIBUTION.**—In any case in which apportionments in a fiscal year would be reduced by subparagraph (A), the Secretary shall for such fiscal year reduce the apportionment to each sponsor of an airport under subsections (a)(1) and (a)(2) proportionately so that such 49.5 percent amount is achieved.

(3) **EFFECT OF OBLIGATION CEILING ON PRIMARY AND CARGO SERVICE APPORTIONMENTS.**—

(A) **OVERALL LIMIT.**—If any Act of Congress has the effect of limiting or reducing the amount authorized or available to be obligated for any fiscal year for the pur-

poses of section 505 of this title, the total amount of all apportionments under subsections (a)(1) and (a)(2) for such fiscal year shall not exceed 49.5 percent of such limited or reduced amount.

(B) **DISTRIBUTION.**—In any case in which apportionments in a fiscal year would be reduced by subparagraph (A), the Secretary shall for such fiscal year reduce the apportionment to each sponsor of an airport under subsections (a)(1) and (a)(2) proportionately so that such 49.5 percent amount is achieved.

(4) **MAXIMUM PERCENTAGE OF APPORTIONMENTS TO ANY CARGO SERVICE AIRPORT.**—The Secretary shall not apportion to the sponsor of any airport more than 8 percent of the total amount of apportionments under subsection (a)(2) for any fiscal year.

(5) **TREATMENT OF ALASKA.**—

(A) **APPORTIONMENT FORMULA.**—Notwithstanding any other provision of subsection (a), for any fiscal year for which funds are made available under section 505 of this title the Secretary may apportion funds for airports in the State of Alaska in the same manner in which funds were apportioned in fiscal year 1980 under section 15(a) of the Airport and Airway Development Act of 1970.

(B) **MINIMUM APPORTIONMENT.**—In no event shall the total amount apportioned for such airports under this paragraph for any fiscal year be less than the minimum amounts that were required to be apportioned to such airports in fiscal year 1980 under section 15(a)(3)(A) of such Act.

(C) **HOLD HARMLESS.**—In no event shall a primary airport be apportioned less under this paragraph for a fiscal year than it would be apportioned for such fiscal year under subsection (a)(1).

(D) **EXPENDITURES AT COMMERCIAL SERVICE AIRPORTS.**—In no event shall the amount of funds apportioned under this paragraph which are expended at any commercial service airport in the State of Alaska during a fiscal year exceed 110 percent of the amount apportioned to such airport for such fiscal year.

(E) **DISCRETIONARY FUNDING.**—Nothing in this paragraph shall be construed as prohibiting the Secretary from making additional project grants to airports in the State of Alaska from the discretionary fund established by subsection (c).

(6) **ELIGIBILITY.**—

(A) **ALASKA.**—Notwithstanding subsection (a)(3)(B), funds apportioned under such subsection for airports in the State of Alaska may be made available by the Secretary for public airports described in section 508(d)(3)(C) in such State.

(B) **PUERTO RICO.**—Notwithstanding subsection (a)(3)(B), funds apportioned under such subsection for airports in the Commonwealth of Puerto Rico may be made available

by the Secretary for primary airports and airports described in section 508(d)(3) in such Commonwealth.

(c) DISCRETIONARY FUND.—

(1) ESTABLISHMENT.—Subject to section 508(d) and paragraph (2) of this subsection any amounts—

(A) which are made available for a fiscal year under section 505,

(B) which have not been previously apportioned by the Secretary, and

(C) which are not apportioned under subsections (a) and (b)(5) of this subsection,

shall constitute a discretionary fund to be distributed at the discretion of the Secretary. Such discretionary fund shall be used for making grants for any of the purposes for which funds are made available under section 505 as the Secretary considers most appropriate for carrying out the purposes of this title.

(2) LEVEL OF FUNDING FOR PRESERVING AND ENHANCING CAPACITY, SAFETY, AND SECURITY.—Subject to section 508(d) and paragraph (4) of this subsection, not less than 75 percent of the funds in the discretionary fund pursuant to paragraph (1) and distributed by the Secretary under this subsection in a fiscal year beginning after September 30, 1987, shall be used for making grants for any of the following purposes: preserving and enhancing capacity, safety, and security at primary airports and reliever airports and carrying out airport noise compatibility planning and programs at primary airports and reliever airports.

(3) SELECTION CRITERIA.—In selecting projects for grants described in paragraph (2) for preserving and enhancing capacity at airports, the Secretary shall consider each proposed project's effect on overall national air transportation system capacity, project benefit and cost, and the financial commitment of the airport operator or other non-Federal funding sources to preserve or enhance airport capacity.

(4) LIMITATION.—If the Secretary determines that the Secretary will not be able to comply with the percentage requirement established by paragraph (2) in any fiscal year because the number of qualified applications submitted in compliance with this title is insufficient to meet such percentages, the portion of funds which the Secretary determines will not be so distributed shall be available for obligation during such fiscal year without regard to such requirement.

(d) CALENDAR YEAR AS BASIS FOR DETERMINING CERTAIN APPORTIONMENTS.—

(1) PASSENGERS ENPLANED.—For purposes of determining apportionments for any fiscal year under subsection (a)(1), the number of passengers enplaned at an airport shall be based on the number of passengers enplaned at such airport during the preceding calendar year.

(2) LANDED WEIGHT.—For purposes of determining apportionments for any fiscal year under subsection (a)(2), the landed weight of aircraft landing at an airport referred to in subsection (a)(2) shall be based on the landed weight of aircraft land-

ing at such airport and all such airports during the preceding calendar year.

(e) DEFINITIONS.—As used in subsection (a)(3)—

(1) POPULATION.—The term “population” means the population according to the latest decennial census of the United States.

(2) AREA.—The term “area” includes both land and water. [49 U.S.C. App. 2206]

SEC. 508. USE OF APPORTIONED AND DISCRETIONARY FUNDS; MISCELLANEOUS CONDITIONS.

(a) DURATION OF AVAILABILITY OF APPORTIONED AMOUNTS.—Each amount apportioned under subsection (a) or (b)(5) of section 507 of this title shall be available for obligation under such apportionment during the fiscal year for which it was first authorized to be obligated and the two fiscal years immediately following. Any amount so apportioned which has not been obligated within such time shall be added to the discretionary fund established by section 507(c) of this title.

(b) TRANSFER OF CERTAIN APPORTIONMENTS OF PRIMARY AIRPORTS.—(1) Funds apportioned to a sponsor under section 507(a)(1) of this title may be used for any of the purposes for which funds are made available under section 505 at any public-use airport of such sponsor which is in the national plan of integrated airport systems.

(2) A sponsor may enter into an agreement with the Secretary whereby the sponsor waives receipt of all or part of the funds apportioned to it under such section on the condition that the Secretary make the waived amount available for any of the purposes for which funds are made available under section 505 to the sponsor of another public-use airport which is a part of the same State or geographical area as the airport of the sponsor making the waiver.

(c) STATES.—Funds apportioned to a State under section 507(a)(3) shall be available for any of the purposes for which funds are made available under section 505 to airports described in section 507(a)(3) which are located in such State. Each sponsor of such an airport may apply to the Secretary for grants from funds apportioned to such State.

(d) GENERAL LIMITATIONS.—(1) Not less than 10 percent of the funds made available under section 505 for any fiscal year shall be distributed to reliever airports during such fiscal year.

(2) Not less than 10 percent of the funds made available under section 505 for any fiscal year shall be obligated during such fiscal year for airport noise compatibility planning under section 103(b) of the Aviation Safety and Noise Abatement Act of 1979 and for carrying out noise compatibility programs or parts thereof under section 104(c) of such Act.

(3) Not less than 2.5 percent of the funds made available under section 505 for any fiscal year shall be distributed during such fiscal year to—

(A) commercial service airports which are not primary airports,

(B) public airports (other than commercial service airports) which were eligible for Federal assistance from funds appor-

tioned under section 15(a)(3) of the Airport and Airway Development Act of 1970, and to which section 15(a)(3)(A)(I) of such Act applied during fiscal year 1981, and

(C) public airports (other than commercial service airports) which were eligible for Federal assistance from funds apportioned under section 15(a)(3) of the Airport and Airway Development Act of 1970, and to which section 15(a)(3)(A)(II) of such Act applied during fiscal year 1981.

No amounts obligated from the funds apportioned under section 507(b)(5) shall be counted as part of the 2.5 percent required to be distributed under this paragraph for each fiscal year.

(4) Not less than $\frac{1}{2}$ of 1 percent of the funds made available under section 505 for any fiscal year shall be distributed to planning agencies for the purpose of integrated airport system planning during such fiscal year.

(5) If the Secretary determines that he will not be able to distribute the amount of funds required to be distributed under paragraph (1), (2), (3), or (4) of this subsection for any fiscal year because the number of qualified applications submitted in compliance with this title is insufficient to meet such amount, the portion of such amount the Secretary determines will not be distributed shall be available for obligation during such fiscal year for other airports and for other purposes authorized by section 505 of this title.

(e) USE OF CERTAIN APPORTIONED FUNDS FOR DISCRETIONARY PURPOSES.—(1) Subject to paragraphs (2) and (3), if the Secretary determines, based upon notice provided under section 509(e), or otherwise that any of the amounts apportioned under section 507(a) or 507(b)(5) will not be obligated during a fiscal year, the Secretary may obligate during such fiscal year an amount equal to such amounts at his discretion for any of the purposes for which funds are made available under section 505.

(2) The Secretary may make obligations in accordance with paragraph (1) only if the Secretary determines that the total of obligations for such fiscal year for purposes of section 505 will not exceed the amount authorized for such fiscal year under section 505(a) and if the Secretary determines that sufficient amounts are authorized under section 505(a) for later fiscal years for obligation for such apportioned amounts which were not obligated during such fiscal year and which remain available under section 508(a).

(3) For the purposes of carrying out this subsection—

(A) None of the funds provided in the joint resolution providing continuing appropriations for the fiscal year 1983 shall be available for the planning or execution of programs the commitments for which are in excess of \$1,050,000,000 for the two fiscal years ending prior to October 1, 1983, for grants-in-aid for airport planning, noise compatibility planning and programs, and development; and

(B) Section 506(e)(4) of this Act shall not in any manner whatsoever impair the limitation established by this paragraph. [49 U.S.C. App. 2207]

SEC. 509. SUBMISSION AND APPROVAL OF PROJECT GRANT APPLICATIONS.

(a) **SUBMISSION.**—(1) Subject to the provisions of this subsection, (A) any public agency, or two or more public agencies acting jointly, or (B) any sponsor of a public-use airport, or two or more such sponsors acting jointly, may submit to the Secretary a project grant application for one or more projects, in a form and containing such information as the Secretary may prescribe, setting forth the project proposed to be undertaken. No project grant application shall propose airport development or airport planning except in connection with public-use airports included in the current national plan of integrated airport systems prepared pursuant to section 504 of this title. Nothing in this subsection shall authorize the submission of a project grant application by any public agency which is subject to the law of any State if the submission of such application by the public agency is prohibited by the law of that State. All proposed airport development shall be in accordance with standards established or approved by the Secretary, including, but not limited to, standards for site location, airport layout, site preparation, paving, lighting, and safety of approaches.

(2) Notwithstanding any provision of this title, the sponsor of any airport may submit a project-grant application for airport development (including noise compatibility projects) to the Secretary within 180 days after the date of enactment of this title, and the Secretary may incur obligations to fund such projects, in accordance with the provisions of this title, from funds available for obligation pursuant to section 507, if—

(A) a project-grant application or preapplication for such project was submitted to the Secretary before September 30, 1980; or

(B) the project was carried out after September 30, 1980, and before the date of enactment of this title.

(3) **STATE SPONSORSHIP.**—Nothing in this title shall preclude a State from submitting, as sole sponsor, a project application under this title for an airport development project benefitting 2 or more airports in the State or airport planning for similar projects at 2 or more airports in the State if—

(A) the sponsors of such airports consent in writing to State sponsorship of such projects or planning;

(B) the Secretary is satisfied that there is administrative merit and aeronautical benefit to State sponsorship of such projects or planning; and

(C) an acceptable agreement exists to ensure compliance by the State with appropriate grant conditions and other assurances required by the Secretary.

(b) **APPROVAL.**—(1) No project grant application may be approved by the Secretary unless the Secretary is satisfied that—

(A) the project is reasonably consistent with plans (existing at the time of approval of the project) of public agencies authorized by the State in which such airport is located to plan for the development of the area surrounding the airport and will contribute to the accomplishment of the purposes of this title;

(B) sufficient funds are available for that portion of the project costs which are not to be paid by the United States under this title;

(C) the project will be completed without undue delay;

(D) the sponsor which submitted the project grant application has legal authority to engage in the project as proposed; and

(E) all project sponsorship requirements prescribed by or under the authority of this title have been or will be met.

(2) No project grant application for airport development may be approved by the Secretary unless the sponsor, a public agency, or the United States or an agency thereof holds good title, satisfactory to the Secretary, to the landing area of the airport or site therefor, or gives assurance satisfactory to the Secretary that good title will be acquired.

(3) No project grant application for airport development may be approved by the Secretary which does not include provision for (A) land required for the installation of approach light systems; (B) touchdown zone and centerline runway lighting; or (C) high intensity runway lighting, when it is determined by the Secretary that any such item is required for the safe and efficient use of the airport by aircraft, taking into account the type and volume of traffic utilizing the airport.

(4) No project grant application for airport development may be approved unless the Secretary is satisfied that fair consideration has been given to the interest of communities in or near which the project may be located.

(5) It is declared to be national policy that airport development projects authorized pursuant to this title shall provide for the protection and enhancement of the natural resources and the quality of the environment of the Nation. In implementing this policy, the Secretary shall consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency with regard to any project included in a project grant application involving airport location, a major runway extension, or runway location which may have a significant impact on natural resources including, but not limited to, fish and wildlife, natural, scenic, and recreation assets, water and air quality, and other factors affecting the environment, and shall authorize no such project found to have significant adverse effect unless the Secretary shall render a finding, in writing, following a full and complete review, which shall be a matter of public record, that no feasible and prudent alternative exists and that all reasonable steps have been taken to minimize such adverse effect.

(6)(A) No project grant application for airport development involving the location of an airport, an airport runway, or a major runway extension may be approved by the Secretary unless the sponsor of the project certifies to the Secretary that there has been afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with the goals and objectives of such planning as has been carried out by the community.

(B) When hearings are held under subparagraph (A) of this paragraph, the project sponsor shall, when requested by the Secretary, submit a copy of the transcript to the Secretary.

(7)(A) No project grant application for a project involving airport location, a major runway extension, or runway location may be approved unless the Governor of the State in which such project is to be located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.

(B) The Secretary shall condition approval of any such project grant application on compliance during construction and operation with applicable air and water quality standards.

(8) Notwithstanding any other provision of law, the Secretary may approve an application for an airport development project (other than an airport development project to which paragraph (7)(A) applies) at an existing airport without requiring the preparation of an environmental impact statement with respect to noise for such project if—

(A) completion of the project would allow existing aircraft operations at the airport that involve aircraft that do not comply with the noise standards prescribed for "stage 2" aircraft in section 36.1 of title 14, Code of Federal Regulations, to be replaced by aircraft operations involving aircraft that do comply with such standards; and

(B) the project complies with all other statutory and administrative requirements imposed under this title.

(9) In establishing priorities for the distribution of funds available pursuant to section 507 of this title, the Secretary may give priority to approval of projects that are consistent with integrated airport system plans.

(c) STATE STANDARDS.—The Secretary is authorized to approve standards, other than standards for safety of approaches, established by a State for airport development at public-use airports in such State which are not primary airports, and, upon such approval, such State standards shall be the standards applicable to such airports in lieu of any comparable standard established under subsection (a) of this section. State standards approved under this subsection may be revised from time to time, as the State or the Secretary determines necessary, subject to approval of such revisions by the Secretary.

(d) ACCEPTANCE OF CERTIFICATION.—The Secretary is authorized in connection with any project to require a certification from a sponsor that such sponsor will comply with all of the statutory and administrative requirements imposed on such sponsor under this title in connection with such project. Acceptance by the Secretary of a certification from a sponsor may be rescinded by the Secretary

at any time. Nothing in this subsection shall affect or discharge any responsibility or obligation of the Secretary under any other Federal law, including, but not limited to, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), section 4(f) of the Department of Transportation Act (49 U.S.C. 1652), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000b), title VIII of the Act of April 11, 1968 (42 U.S.C. 3601 et seq.), and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(e) **REQUIREMENT OF NOTICE.**—Each sponsor to which funds are apportioned under section 507(a)(1) or 507(a)(2) of this title shall notify the Secretary, by such time and in a form containing such information as the Secretary may prescribe, of the fiscal year in which it intends to apply, by project grant application, for such funds. If a sponsor does not provide such notification, the Secretary may defer approval of any application for such funds until the fiscal year immediately following the fiscal year in which such application is submitted. [49 U.S.C. App. 2208]

SEC. 510. UNITED STATES SHARE OF PROJECT COSTS.

(a) **GENERAL PROVISION.**—Except as otherwise provided in this title, the United States share of allowable project costs payable on account of any project contained in an approved project grant application submitted in accordance with this title shall be 90 percent of the allowable project costs.

(b) **PROJECTS AT CERTAIN PRIMARY AIRPORTS.**—In the case of primary airports enplaning 0.25 percent or more of the total number of passengers enplaned annually at all commercial service airports, the United States share of allowable project costs payable on account of any project contained in an approved project grant application shall be 75 per centum of the allowable project costs.

(c) **PROJECTS IN PUBLIC LAND STATES.**—In the case of any State containing unappropriated and unreserved public lands and non-taxable Indian lands (individual and tribal) exceeding 5 percent of the total area of all lands therein, the United States share under subsection (a) or (b) shall be increased by whichever is the smaller of the following percentages thereof: (1) 25 percent, or (2) a percentage equal to one-half of the percentage that the area of all such lands in that State is of its total area. In no event shall such United States share, as increased by this subsection, exceed the greater of (A) the percentage share determined under subsection (a) or (b) of this section, or (B) the percentage share applying on June 30, 1975, as determined under subsection 17(b) of the Airport and Airway Development Act of 1970. [49 U.S.C. App. 2209]

SEC. 511. PROJECT SPONSORSHIP.

(a) **SPONSORSHIP.**—As a condition precedent to approval of an airport development project contained in a project grant application submitted under this title, the Secretary shall receive assurances, in writing, satisfactory to the Secretary, that—

(1) the airport to which the project relates will be available for public use on fair and reasonable terms and without unjust discrimination, including the requirement that (A) each air carrier using such airport (whether as a tenant, nontenant, or subtenant of another air carrier tenant) shall be subject to

such nondiscriminatory and substantially comparable rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation and such nondiscriminatory and substantially comparable rules, regulations, and conditions as are applicable to all such air carriers which make similar use of such airport and which utilize similar facilities, subject to reasonable classifications such as tenants or nontenants, and signatory carriers and nonsignatory carriers, and such classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status, and (B) each fixed-based operator at any airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport utilizing the same or similar facilities, and (C) each air carrier using such airport shall have the right to service itself or to use any fixed-base operator that is authorized by the airport or permitted by the airport to serve any air carrier at such airport;

(2) there will be no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of services at an airport by a single fixed-based operator shall not be construed as an exclusive right if it would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and if allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport;

(3) the airport and all facilities thereon or connected therewith will be suitably operated and maintained, with due regard to climatic and flood conditions, and any proposal to temporarily close the airport for nonaeronautical purposes must first be approved by the Secretary;

(4) appropriate action will be taken to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards;

(5) appropriate action, including the adoption of zoning laws has been or will be taken, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft;

(6) all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft will be available to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government air-

craft is substantial, charge may be made for a reasonable share, proportional to such use, of the cost of operating and maintaining the facilities used;

(7) the airport operator or owner will furnish without cost to the Federal Government for use in connection with any air traffic control or navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction at Federal expense of space or facilities for such purposes;

(8) all project accounts and records will be kept in accordance with a standard system of accounting prescribed by the Secretary after consultation with appropriate public agencies;

(9) the airport operator or owner will maintain a fee and rental structure for the facilities and services being provided the airport users which will make the airport as self-sustaining as possible under the circumstances existing at that particular airport, taking into account such factors as the volume of traffic and economy of collection, except that no part of the Federal share of an airport development or airport planning project for which a grant is made under this title or under the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate base in establishing fees, rates, and charges for users of that airport;

(10) the airport operator or owner will submit to the Secretary such annual or special airport financial and operations reports as the Secretary may reasonably request;

(11) the airport and all airport records will be available for inspection by any duly authorized agent of the Secretary upon reasonable request;

(12) all revenues generated by the airport, if it is a public airport, and any local taxes on aviation fuel (other than taxes in effect on the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987) will be expended for the capital or operating costs of the airport, the local airport system, or other local facilities which are owned or operated by the owner or operator of the airport and directly and substantially related to the actual air transportation of passengers or property; except that if covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in the governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all other revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply;

(13) if the airport operator or owner receives a grant before, on, or after the date of the enactment of this paragraph for the purchase of land for airport noise compatibility purposes—

(A) the owner or operator will, when the land is no longer needed for such purposes, dispose of such land at fair market value at the earliest practicable time;

(B) such disposition will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with the operation of the airport; and

(C) that portion of the proceeds of such disposition which is proportionate to the United States share of the cost of acquisition of such land will, at the discretion of the Secretary—

(i) be paid to the Secretary for deposit in the Trust Fund; or

(ii) be reinvested in an approved noise compatibility project as prescribed by the Secretary;

(14) if the airport operator or owner receives a grant before, on, or after the date of the enactment of this paragraph for the purchase of land for airport purposes (other than noise compatibility purposes)—

(A) the owner or operator will, when the land is no longer needed for airport purposes, dispose of such land at fair market value;

(B) such disposition will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with the operation of the airport; and

(C) that portion of the proceeds of such disposition which is proportionate to the United States share of the cost of acquisition of such land will be paid to the Secretary for deposit in the Trust Fund;

(15) the airport owner or operator will keep up to date at all times a layout plan of the airport which meets the following requirements:

(A) the plan will be in a form prescribed by the Secretary;

(B) before the plan and an amendment, revision, or modification thereof may take effect, the plan, amendment, revision, or modification will be submitted to, and receive approval of, the Secretary;

(C) the owner or operator will not make or permit any changes or alterations in the airport or in any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility, or efficiency of the airport;

(D) if a change or alteration in the airport or its facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as

approved by the Secretary, the owner or operator will, if requested by the Secretary—

(i) eliminate such adverse effect in a manner approved by the Secretary; or

(ii) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities;

(16) each contract or subcontract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, or related services with respect to the project will be awarded in the same manner as a contract for architectural and engineering services is negotiated under title IX of the Federal Property Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport; and

(17) the airport owner or operator will take such action as may be necessary to ensure that, to the maximum extent practicable, at least 10 percent of all businesses at the airport which sell food, beverages, printed materials, or other consumer products to the public are small business concerns (as defined by the Secretary by regulation) owned and controlled by socially and economically disadvantaged individuals (as defined under section 505(d)(2)(B)).

(b) COMPLIANCE.—To insure compliance with this section, the Secretary shall prescribe such project sponsorship requirements, consistent with the terms of this title, as the Secretary considers necessary. Among other steps to insure such compliance, the Secretary is authorized to enter into contracts with public agencies on behalf of the United States. Whenever the Secretary obtains from a sponsor any area of land or water, or estate therein, or rights in buildings of the sponsor and constructs space or facilities thereon at Federal expense, the Secretary is authorized to relieve the sponsor from any contractual obligation entered into under this title, the Airport and Airway Development Act of 1970, or the Federal Airport Act to provide free space in airport buildings to the Federal Government to the extent the Secretary finds that space no longer required for the purposes set forth in paragraph (7) of subsection (a) of this section.

(c) CONSULTATION.—In making a decision to undertake any airport development project under this title, each sponsor of an airport shall undertake reasonable consultations with affected parties using the airport at which such project is proposed.

(d) USE OF STATE TAXES ON AVIATION FUEL.—Nothing in subsection (a)(12) of this section shall preclude the use of State taxes on aviation fuel to support a State aviation program or preclude use of airport revenue on or off the airport for noise mitigation purposes.

(e) USE OF LAND DISPOSAL FUNDS.—

(1) AIRPORT NOISE COMPATIBILITY LANDS.—Amounts deposited in the Trust Fund in accordance with subsection (a)(13) of this

section shall be available to the Secretary for making grants for airport development and airport planning under section 505(a). Such amounts shall be in addition to amounts made available to the Secretary under section 505 and not subject to the apportionment provisions of sections 507(a) and 507(b)(5).

(2) **OTHER AIRPORT LANDS.**—Amounts deposited in the Trust Fund in accordance with subsection (a)(14) of this section—

(A) shall be available to the Secretary for making grants at the discretion of the Secretary for the purposes described in section 507(c)(2) at primary airports and reliever airports; and

(B) shall be available to the Secretary for use in accordance with section 507(a)(3) at other airports in the State in which the land disposition occurred under subsection (a)(14).

Such amounts shall be in addition to amounts made available to the Secretary under section 505 and not subject to the apportionment provisions of sections 507(a) and 507(b)(5).

(f) **PROCEDURES FOR MODIFYING ASSURANCES.**—If the Secretary proposes to modify any assurance required of a person receiving a grant under this Act and in effect on or after the date of the enactment of this subsection or proposes to require compliance with any additional assurance from such person, the Secretary shall first—

(1) publish notice of such proposal in the Federal Register, and

(2) provide an opportunity for comment on such proposal. [49 U.S.C. App. 2210]

SEC. 512. GRANT AGREEMENTS.

(a) **OFFER AND ACCEPTANCE.**—Upon approving a project grant application, the Secretary, on behalf of the United States, shall transmit to the sponsor or sponsors of the application an offer to make a grant for the United States share of allowable project costs. An offer shall be made upon such terms and conditions as the Secretary considers necessary to meet the requirements of this title and any regulations prescribed thereunder. Each offer shall state a definite amount as the maximum obligation of the United States payable from funds authorized by this title, and shall stipulate the obligations to be assumed by the sponsor or sponsors. In any case where the Secretary approves a project grant application for a project which will not be completed in one fiscal year, the offer shall, upon request of the sponsor, provide for the obligation of funds apportioned or to be apportioned to the sponsor pursuant to section 507(a)(1) or 507(a)(2) of this title for such fiscal years (including future fiscal years) as may be necessary to pay the United States share of the cost of such project. If and when an offer is accepted in writing by the sponsor, the offer and acceptance shall comprise an agreement constituting an obligation of the United States and of the sponsor. Unless and until an agreement has been executed, the United States may not pay, nor be obligated to pay, any portion of the costs which have been or may be incurred.

(b) **MAXIMUM OBLIGATION OF THE UNITED STATES.**—

(1) **GENERAL RULE.**—Subject to paragraphs (2) and (3) of this subsection, when an offer is accepted in writing by a sponsor,

the amount stated in the offer as the maximum obligation of the United States may not be increased.

(2) **EXCEPTIONS FOR FISCAL YEARS 1987 AND BEFORE.**—The maximum obligation of the United States under this subsection with respect to a project receiving assistance under a grant approved under this title on or before September 30, 1987, may be increased—

(A) by not more than 10 percent in the case of a project for airport development (other than a project for land acquisition); and

(B) by an amount not to exceed 50 percent of the total increase in allowable project costs attributable to an acquisition of land or interests in land, based upon current credible appraisals.

Any increase under this section may be paid only from funds recovered by the United States from other grants made under this title.

(3) **EXCEPTIONS FOR FISCAL YEARS 1988 AND THEREAFTER.**—The maximum obligation of the United States under this subsection with respect to a project receiving assistance under a grant approved under this title or the Aviation Safety and Noise Abatement Act of 1979 after September 30, 1987, may be increased by not more than 15 percent in the case of a project for airport development.

(c) **MAXIMUM OBLIGATION FOR GRANTS UNDER THE AIRPORT AND AIRWAY DEVELOPMENT OF 1970**—Notwithstanding any other provision of law, in the case of grants made under the Airport and Airway Development Act of 1970 the maximum obligation of the United States may be increased by not more than 10 percent, and any such increase may be paid for only from funds recovered by the United States from other grants made under that Act.

(d) **WORKSCOPE.**—The Secretary may amend, with the consent of the grant recipient, a grant agreement entered into under this title to change the workscope of a project funded under such grant if such amendment does not result in any increase in the maximum obligation of the United States authorized under subsection (b) of this section. [49 U.S.C. App. 2211]

SEC. 513. PROJECT COSTS.

(a) **ALLOWABLE PROJECT COSTS.**—Except as provided in section 514 of this title, the United States may not pay, or be obligated to pay, from amounts appropriated to carry out the provisions of this title, any portion of a project cost incurred in carrying out a project for airport development or airport planning unless the Secretary has first determined that the cost is allowable. A project cost is allowable if—

(1) it was a necessary cost incurred in accomplishing an approved project in conformity with the terms and conditions of the grant agreement entered into in connection with the project, including any costs incurred by a recipient in connection with any audit required by the Secretary pursuant to section 518(b) of this title;

(2) it was incurred subsequent to the execution of the grant agreement with respect to the project, and in connection with

airport development or airport planning accomplished under the project after the execution of the agreement. However, the allowable costs of a project for airport development may include any necessary costs of formulating the project (including the costs of field surveys and the preparation of plans and specifications, the acquisition of land or interests therein or easements through or other interests in airspace, and any necessary administrative or other incidental costs incurred by the sponsor specifically in connection with the accomplishment of the project for airport development, which would not have been incurred otherwise) which were incurred prior to the execution of the grant agreement and subsequent to May 13, 1946, and the allowable costs of a project for airport planning may include any necessary and direct costs associated with developing the project work scope which were incurred subsequent to May 13, 1946;

(3) in the opinion of the Secretary it is reasonable in amount, and if the Secretary determines that a project cost is unreasonable in amount, the Secretary may allow as an allowable project cost only so much of such project cost as the Secretary determines to be reasonable, except that in no event may the Secretary allow project costs in excess of the definite amount stated in the grant agreement except to the extent authorized by section 512(b); and

(4) it has not been incurred in any project for airport planning or airport development for which Federal assistance has been granted.

The Secretary is authorized to prescribe such regulations, including regulations with respect to the auditing of project costs, as the Secretary considers necessary to accomplish the purposes of this section.

(b) **TERMINAL DEVELOPMENT.**—(1) Notwithstanding any other provision of this title, upon certification by the sponsor of any commercial service airport that such airport has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 612 of the Federal Aviation Act of 1958 and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning or deplaning from aircraft other than air carrier aircraft, the Secretary may approve, as allowable project costs of a project for airport development at such airport, terminal development (including multimodal terminal development) in nonrevenue-producing public-use areas if such project cost is directly related to the movement of passengers and baggage in air commerce within the boundaries of the airport, including, but not limited to, vehicles for the movement of passengers between terminal facilities or between terminal facilities and aircraft.

(2) All or any portion of the sums apportioned under section 507(a)(1) of this title to the sponsor of a primary airport for any fiscal year may be obligated for project costs allowable under paragraph (1) of this subsection. Not more than \$200,000 of the sums to be distributed at the discretion of the Secretary under section

507(c) for any fiscal year may be used by the sponsor of a commercial service airport which is not a primary airport for project costs allowable under paragraph (1) of this subsection.

(3) Not more than \$25,000,000 may be obligated for project costs allowable under paragraph (1) of this subsection in any fiscal year at commercial service airports which were not eligible for assistance for terminal development during the fiscal year ending September 30, 1980, under section 20(b) of the Airport and Airway Development Act of 1970.

(4) Sums apportioned under section 507(a) or 507(b)(5) and made available to the sponsor of an air carrier airport (within the meaning of section 11(1) of the Airport and Airway Development Act of 1970, as in effect immediately before the date of enactment of this paragraph) at which terminal development was carried out on or after July 1, 1970, and before July 12, 1976, shall be available, subject to the limitations contained in paragraph (2) of this subsection, for the immediate retirement of the principal of bonds or other evidences of indebtedness the proceeds of which were used for that part of the terminal development at such airport the cost of which would be allowable under paragraph (1) of this subsection if incurred after the effective date of this paragraph, subject to the following conditions:

(A) That such sponsor submit the certification required under paragraph (1) of this subsection.

(B) That the Secretary determine that no project for airport development at such airport outside the terminal area will be deferred if such sums are used for such retirement.

(C) That no funds available for airport development under this title will be obligated for any project for additional terminal development at such airport for a period of three years beginning on the date any such sums are used for such retirement.

(5) Notwithstanding any other provisions of this title, the United States share of project costs allowable under paragraph (1) of this subsection shall not exceed 75 percent.

(6) The Secretary shall approve project costs allowable under paragraph (1) of this subsection under such terms and conditions as may be necessary to protect the interests of the United States.

(c) **COSTS NOT ALLOWED.**—Except as provided in subsection (b) of this section, the following are not allowable project costs: (1) the cost of construction of that part of an airport development project intended for use as a public parking facility for passenger automobiles; (2) the cost of construction, alteration, or repair of a hangar or of any part of an airport building except such of those buildings or parts of buildings intended to house facilities or activities directly related to the safety of persons at the airport; or (3) the cost of decorative landscaping or the provision or installation of sculpture or art works.

(d) **REIMBURSEMENT FOR CERTAIN ADVANCE EXPENDITURES.**—

(1) **LETTERS OF INTENT.**—

(A) **ANNOUNCEMENT OF INTENTION.**—The Secretary is authorized to announce an intention to obligate for an airport development project (including formulation of the

project) at a primary airport or a reliever airport under this subsection through the issuance of a letter of intent to the applicant.

(B) **SCHEDULE OF REIMBURSEMENT.**—Subject to the provisions of this paragraph, a letter of intent issued under this paragraph shall establish a schedule under which the Secretary will make payments under paragraph (2) of this subsection to the sponsor of the airport at which the airport development project will be carried out.

(C) **LIMITATION ON PROJECTS ELIGIBLE FOR ADVANCE FUNDING.**—The provisions of this subsection only apply to an airport development project—

(i) regarding which the sponsor notifies the Secretary of the sponsor's intent to carry out such project before commencement of such project;

(ii) which will be carried out in accordance with all applicable statutory and administrative requirements that would be applicable to the project if the project were being carried out with funds made available under this title; and

(iii) which the Secretary determines will result in a significant enhancement of system-wide airport capacity and meets the criteria of section 507(c)(3).

Clause (i) shall not apply to a project which is commenced on or after November 20, 1987, and for which a letter of intent is signed under this subsection in the 90-day period beginning on the date of the enactment of this subsection.

(D) **LIMITATION ON EFFECT.**—An action under subparagraph (A) shall not be deemed an obligation of the United States Government under section 1501 of title 31, United States Code, and a letter of intent issued under this paragraph shall not be deemed to be an administrative commitment for funding.

(E) **TREATMENT OF LETTER.**—A letter of intent under this paragraph shall be regarded as an intention to obligate from future budget authority not to exceed an amount stipulated as the United States share of allowable project costs for the project under this subsection. No obligation or administrative commitment may be made pursuant to such a letter of intent except as funds are provided in authorization and appropriation Acts.

(F) **LIMITATIONS ON AGGREGATE AMOUNT.**—The total estimated amount of future Federal obligations covered by all outstanding letters of intent under this paragraph shall not exceed the amount authorized to carry out section 505(a), less an amount reasonably estimated by the Secretary to be necessary for grants under section 505(a) which are not covered by a letter of intent.

(2) **REIMBURSEMENT.**—If the Secretary issues under paragraph (1) a letter of intent to obligate funds for an airport development project (including formulation of the project) at a primary airport or reliever airport and if the sponsor of such airport proceeds with such project without the aid of funds

under this title, the Secretary shall pay, as funds become available, the sponsor for the United States share of allowable project costs payable on account of such project in accordance with such letter of intent. [49 U.S.C. App. 2212]

SEC. 514. PAYMENTS UNDER GRANT AGREEMENTS.

The Secretary, after consultation with the sponsor with which a project grant agreement has been entered into, may determine the times and amounts in which payments shall be made under the terms of such agreement. Payments in an aggregate amount not to exceed 90 percent of the United States share of the total estimated allowable project costs may be made from time to time in advance of accomplishment of the airport project to which the payments relate, if the sponsor certifies to the Secretary that the aggregate expenditures to be made from the advance payments will not at any time exceed the cost of the airport development work which has been performed up to that time. If the Secretary determines that the aggregate amount of payments made under a project grant agreement at any time exceeds the United States share of the total allowable project costs, the United States shall be entitled to recover the excess. If the Secretary finds that any airport development to which the advance payments relate has not been accomplished within a reasonable time or the project is not completed, the United States may recover any part of the advance payment for which the United States received no benefit. Payments under a project grant agreement shall be made to the official or depository authorized by law to receive public funds and designated by the sponsor. [49 U.S.C. App. 2213]

SEC. 515. PERFORMANCE OF CONSTRUCTION WORK.

(a) **REGULATIONS.**—The construction work on any project for airport development contained in an approved project grant application submitted in accordance with this title shall be subject to inspection and approval by the Secretary and shall be in accordance with regulations prescribed by the Secretary. Such regulations shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary. No such regulation shall have the effect of altering any contract in connection with any project entered into without actual notice of the regulation.

(b) **MINIMUM RATES OF WAGES.**—All contracts in excess of \$2,000 for work on projects for airport development approved under this title which involve labor shall contain provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

(c) **VETERANS PREFERENCE.**—All contracts for work under project grants for airport development approved under this title which involve labor shall contain such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to veterans of the Vietnam era and disabled veterans. However, this pref-

erence shall apply only where the individuals are available and qualified to perform the work to which the employment relates. For the purposes of this subsection—

(1) a Vietnam-era veteran is an individual who served on active duty as defined by section 101(21) of title 38 of the United States Code in the Armed Forces for a period of more than 180 consecutive days any part of which occurred during the period beginning August 5, 1964, and ending May 7, 1975, and who was separated from the Armed Forces under honorable conditions; and

(2) a disabled veteran is an individual described in section 2108(2) of title 5 of the United States Code. [49 U.S.C. App. 2214]

SEC. 516. USE OF GOVERNMENT-OWNED LANDS.

(a) REQUESTS FOR USE.—Subject to the provisions of subsection (c) of this section, whenever the Secretary determines that use of any lands owned or controlled by the United States is reasonably necessary for carrying out a project under this title at a public airport, or for the operation of any public airport, including lands reasonably necessary to meet future development of an airport in accordance with the national plan of integrated airport systems, the Secretary shall file with the head of the department or agency having control of the lands a request that the necessary property interests therein be conveyed to the public agency sponsoring the project in question or owning or controlling the airport. The property interest may consist of the title to, or any other interest in, land or any easement through or other interest in airspace.

(b) MAKING OF CONVEYANCES.—Upon receipt of a request from the Secretary under this section, the head of the department or agency having control of the lands in question shall determine whether the requested conveyance is inconsistent with the needs of the department or agency, and shall notify the Secretary of the determination within a period of four months after receipt of the Secretary's request. If the department or agency head determines that the requested conveyance is not inconsistent with the needs of that department or agency, the department or agency head is hereby authorized and directed, with the approval of the Attorney General of the United States, and without any expense to the United States, to perform any acts and to execute any instruments necessary to make the conveyance requested. A conveyance may be made only on the condition that, at the option of the Secretary, the property interest conveyed shall revert to the United States in the event that the lands in question are not developed for airport purposes or used in a manner consistent with the terms of the conveyance. If only a part of the property interest conveyed is not developed for airport purposes, or used in a manner consistent with the terms of the conveyance, only that particular part shall, at the option of the Secretary, revert to the United States.

(c) EXEMPTION OF CERTAIN LANDS.—Unless otherwise specifically provided by law, the provisions of subsections (a) and (b) of this section shall not apply with respect to lands owned or controlled by the United States within any national park, national monument, national recreation area, or similar area under the administration

of the National Park Service; within any unit of the National Wildlife Refuge System or similar area under the jurisdiction of the United States Fish and Wildlife Service; or within any national forest or Indian reservation. [49 U.S.C. App. 2215]

SEC. 517. FALSE STATEMENTS.

Any officer, agent, or employee of the United States, or any officer, agent, or employee of any public agency, or any person, association, firm, or corporation who, with intent to defraud the United States—

(1) knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the costs thereof, in connection with the submission of plans, maps, specifications, contracts, or estimates of project costs for any project submitted to the Secretary for approval under this title;

(2) knowingly makes any false statement, false representation, or false report or claim for work or materials for any project approved by the Secretary under this title; or

(3) knowingly makes any false statement or false representation in any report or certification required to be made under this title;

shall, upon conviction thereof, be punished by imprisonment for not to exceed five years or by a fine of not to exceed \$10,000, or by both. [49 U.S.C. App. 2216]

SEC. 518. ACCESS TO RECORDS.

(a) RECORDKEEPING REQUIREMENTS.—Each recipient of a grant under this title shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and the disposition by the recipient of the proceeds of the grant, the total cost of the plan or program in connection with which the grant is given or used, and the amount and nature of that portion of the cost of the plan or program supplied by other sources, and such other records as will facilitate an effective audit. The Secretary shall annually review the reporting and recordkeeping requirements under this title to insure that such requirements are kept to the minimum level necessary for the proper administration of this title.

(b) AUDIT AND EXAMINATION.—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to grants received under this title. The Secretary may require, as a condition to receipt of a grant under this title, that an appropriate audit be conducted by a recipient.

(c) AUDIT REPORTS.—In any case in which an independent audit is made of the accounts of a recipient of a grant under this title relating to the disposition of the proceeds of such grant or relating to the plan or program in connection with which the grant was given or used, the recipient shall file a certified copy of such audit with the Comptroller General of the United States not later than six months following the close of the fiscal year for which the audit was made. On or before April 15 of each year the Comptroller Gen-

eral shall report to the Congress describing the results of each audit conducted or reviewed by him under this section during the preceding fiscal year. The Comptroller General shall prescribe such regulations as are deemed necessary to carry out the provisions of this subsection.

(d) **WITHHOLDING INFORMATION.**—Nothing in this section shall authorize the withholding of information by the Secretary or the Comptroller General of the United States, or any officer or employee under the control of either of them, from the duly authorized committees of the Congress. [49 U.S.C. App. 2217]

SEC. 519. GENERAL POWERS.

(a) **GENERAL RULE.**—The Secretary is empowered to perform such acts, to conduct such investigations and public hearings, to issue and amend such orders, and to make and amend such regulations and procedures, pursuant to and consistent with the provisions of this title, as the Secretary considers necessary to carry out the provisions of, and to exercise and perform the Secretary's powers and duties, under this title.

(b) **LIMITATIONS.**—

(1) **WITHHOLDING OF APPROVAL.**—The Secretary may not withhold approval of a grant application for funds apportioned under sections 507(a)(1), 507(a)(2), and 507(b)(5) for a violation of an assurance or other requirement of this title unless—

(A) the Secretary provides the applicant with an opportunity for a hearing; and

(B) within 180 days after the date of such application or the date the Secretary first knows of such noncompliance, whichever is later, the Secretary makes a determination that the violation has occurred.

(2) **WITHHOLDING OF PAYMENT.**—The Secretary may not withhold a payment under any grant agreement entered into under this title for more than 180 days after the date such payment is due—

(A) without providing the recipient of such payment with notice and an opportunity for a hearing; and

(B) without determining that the grant recipient has violated such agreement.

(3) **EXTENSION OF TIME LIMITS.**—The time limits established by paragraphs (1) and (2) of this section may be extended—

(A) by mutual agreement of the Secretary and the grant applicant or recipient, as the case may be; or

(B) at the discretion of the hearing officer if the hearing officer determines that such extension is necessary as a result of a failure of the applicant or recipient to adhere to the hearing schedule established by such officer.

(4) **JUDICIAL REVIEW.**—A person aggrieved by an order of the Secretary withholding (A) approval of a grant application under paragraph (1), or (B) a payment under a grant agreement under paragraph (2), may obtain review of the order by petition to the Court of Appeals for the District of Columbia Circuit or the court of appeals for the circuit in which the project is located. Such petition shall be filed not later than 60

days after the date on which the order is served on the petitioner. [49 U.S.C. App. 2218]

SEC. 520. CIVIL RIGHTS.

The Secretary shall take affirmative action to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from participating in any activity conducted with funds received from any grant made under this title. The Secretary shall promulgate such rules as the Secretary deems necessary to carry out the purposes of this section and may enforce this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964. The provisions of this section shall be considered to be in addition to and not in lieu of the provisions of title VI of the Civil Rights Act of 1964. [49 U.S.C. App. 2219]

SEC. 521. REPORTS TO CONGRESS.

On or before the first day of April of each year the Secretary shall make a report to the Congress describing his operations under this title during the preceding fiscal year. The report shall include a detailed statement of the airport development accomplished, the status of each project undertaken, the allocation of appropriations, and an itemized statement of expenditures and receipts. [49 U.S.C. App. 2220]

SEC. 522. REPORT ON ABILITY OF AIRPORTS TO FINANCE AIRPORT DEVELOPMENT NEEDS.

(a) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of enactment of this title, the Secretary shall submit to the Congress a report on whether, and to what extent, those airports which have the ability to finance their capital and operating needs without Federal assistance should be made ineligible to receive Federal assistance for airport development and airport planning under this title.

(b) CONSIDERATIONS.—The study shall consider, among other things: (1) what effect, if any, making such airports ineligible for such Federal assistance would have on the national airport system; (2) whether airports which are made ineligible for assistance, or voluntarily withdraw from the program, should be permitted to collect a passenger facility charge; (3) how such a passenger facility charge could be collected in order to minimize any cost and inconvenience for passengers, airports, and air carriers; (4) the extent to which such a program would permit a reduction in Federal taxes on air transportation; (5) whether the net effect of such a program would lower or increase the cost of air transportation to passengers on our Nation's air carriers; and (6) whether the Congress should implement such a program prior to the expiration of this title.

(c) CONSULTATION.—In conducting the study, the Secretary shall consult with airport operators, air carriers, and representatives of any other groups which may be substantially affected by such a program. [49 U.S.C. App. 2221]

SEC. 523. REPEALS; EFFECTIVE DATE; SAVING PROVISIONS; AND SEPARABILITY.

(a) **REPEAL.**—Sections 1 through 30 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1701–1730) are repealed on the date of enactment of this title.

(b) **EFFECTIVE DATE.**—This title and the amendments made by this title shall take effect on the date of enactment of this title.

(c) **SAVING PROVISIONS.**—(1) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, grants, rights, and privileges which have been issued, made, granted, or allowed to become effective by the President, the Secretary, or any court of competent jurisdiction or any provision of the Airport and Airway Development Act of 1970 or the Federal Airport Act which are in effect at the time this title takes effect, are continued in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary or by any court of competent jurisdiction, or by operation of law.

(2) Notwithstanding any other provision of this title, amounts apportioned before October 1, 1981, pursuant to section 15(a)(3) of the Airport and Airway Development Act of 1970, which have not been obligated by grant agreement before that date, shall remain available for obligation, for the duration of time specified in section 15(a)(5) of that Act, in accordance with the provisions of that Act (other than the second sentence of section 14(b)(2)), to the same extent as though that Act had not been repealed.

(d) **SEPARABILITY.**—If any provision of this title or the application thereof to any person or circumstance is held invalid, the remainder of the title and the application of the provision to other persons or circumstances is not affected thereby.

SEC. 524. MISCELLANEOUS AMENDMENTS.

[Amendments to other laws: Omitted.]

SEC. 525. SAFETY CERTIFICATION OF AIRPORTS.

[Amendments to other laws: Omitted.]

SEC. 526. CONTRACTING AUTHORITY.

In the powers granted under section 519 of this title, the Secretary, in entering into a contract or other agreement with any State or political subdivision thereof for the purpose of permitting such State or subdivision to operate any airport facility within such State or subdivision shall insure that such contract or agreement contain, among others, a provision relieving the United States of any and all liability for the payment of any claim or other obligation arising out of or in connection with acts or omissions of employees of such State or political subdivision in the operation of any such airport facility. [49 U.S.C. App. 2222]

SEC. 527. STUDY OF AIRPORT ACCESS.

(a) The Secretary shall appoint a task force, as provided in subsection (b), to study the problems of allocating the use of airport facilities and airspace (including, but not limited to, gate facilities, landing facilities, airspace slots, and ticketing and terminal space) among persons using or seeking to use such facilities. The task force shall make a study of present methods of allocating the use of airport facilities and airspace, and, if such action is determined to

be appropriate, shall make recommendations for improving those methods and for resolving disputes with respect to the use of such facilities. The task force shall report its findings and recommendations to the chairman of the Committee on Public Works and Transportation of the House of Representatives and the chairman of the Committee on Commerce, Science, and Transportation of the Senate not later than one hundred and twenty days after the task force first meets under subsection (c).

(b) The task force shall consist of the Chairman of the Civil Aeronautics Board, who shall serve as chairman of the task force, and individuals appointed by the Secretary of Transportation not later than sixty days after the date of enactment of this title, including, but not limited to, a representative of each of the following:

- (1) the Department of Transportation;
- (2) the Department of Justice;
- (3) States;
- (4) owners and operators of airports, including those owners and operators of airports which do not restrict access, but which provide service to airports where access is currently restricted or is expected to be restricted in the future;
- (5) trunk air carriers;
- (6) regional air carriers (other than commuter air carriers);
- (7) charter air carriers;
- (8) commuter air carriers;
- (9) all-cargo air carriers;
- (10) general aviation;
- (11) financial institutions with an interest in the aviation industry; and
- (12) aviation consumer groups.

(c) The task force shall meet, at the direction of the chairman, not later than thirty days after all its members have been appointed under subsection (b), and at such other times as may be necessary to complete the study required by this section.

(d) The Secretary shall provide such staff and support services as may be necessary to assist the task force in completing the report required by this section. [49 U.S.C. App. 2223]

SEC. 528. PART-TIME OPERATION OF FLIGHT SERVICE STATIONS.

(a) **GENERAL RULE.**—On or after July 15, 1987, the Secretary shall not close, or reduce the hours of operation of, any flight service station in any area unless the service provided in such area after the closure of such station or during the hours such station is not in operation will be provided by an automated flight service station with model 1 or better equipment.

(b) **RULE FOR CERTAIN CLOSED STATIONS.**—As soon as practicable after the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987, the Secretary shall reopen any flight service station closed between March 25, 1987, and July 14, 1987, if the service provided in the area in which such station is located since the date of such closure has not been provided by an automated flight service station with model 1 or better equipment. The hours of operation for such station shall be the same as the hours of operation of such station on March 25, 1987. After reopening such station, the Secretary may only close or reduce the hours

of operation of such station in accordance with subsection (a). [49 U.S.C. App. 2224]

SEC. 529. EXPLOSIVE DETECTION K-9 TEAMS.

The Secretary may provide by grant for the continuation of the Explosive Detection K-9 Team Training Program for the purpose of detecting explosives at airports and aboard aircraft. [49 U.S.C. App. 2225]

SEC. 530. RELEASE OF CERTAIN CONDITIONS.

(a) **CRYSTAL CITY, TEXAS.**—(1) Notwithstanding section 16 of the Federal Airport Act (as in effect on January 3, 1949), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated January 3, 1949, or any other deed of conveyance dated after such date and before the date of enactment of this section, under which the United States conveyed certain property to Crystal City, Texas, for airport purposes.

(2) Any release granted by the Secretary of Transportation under paragraph (1) of this subsection shall be subject to the following conditions:

(A) Crystal City, Texas, shall agree that in conveying any interest in the property which the United States conveyed to the city by a deed described in paragraph (1) the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary).

(B) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

(b) **BROWNWOOD, TEXAS.**—(1) Notwithstanding section 16 of the Federal Airport Act (as in effect on June 26, 1950), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deeds of conveyance dated June 26, 1950, and April 1, 1963, under which the United States conveyed certain property to the city of Brownwood, Texas, for airport purposes.

(2) Any release granted by the Secretary of Transportation under paragraph (1) of this subsection shall be subject to the following conditions:

(A) The city of Brownwood, Texas, shall agree that in conveying any interest in the property which the United States conveyed to the city by the deeds dated June 26, 1950, and April 1, 1963, the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary).

(B) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

(c) **GRAND JUNCTION, COLORADO.**—(1) Notwithstanding section 16 of the Federal Airport Act (as in effect on September 14, 1951), the

Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated September 14, 1951, under which the United States conveyed certain property to the city of Grand Junction, Colorado, for airport purposes and the deed of conveyance dated March 24, 1975, under which the city of Grand Junction, Colorado, conveyed such property to the Walker Field Public Airport Authority.

(2) Any release granted by the Secretary of Transportation under paragraph (1) of this subsection shall be subject to the following conditions:

(A) The property for which releases are granted under this section shall not exceed a total of eighteen acres.

(B) The Walker Field Public Airport Authority shall agree that in leasing, or conveying any interest in, the property for which releases are granted under this section, such Authority will receive an amount which is equal to the fair lease value or the fair market value, as the case may be (as determined pursuant to regulations issued by such Secretary).

(C) Any such amount so received by the Walker Field Public Airport Authority, shall be used by such Authority for the development, improvement, operation, or maintenance of the Walker Field Public Airport.

(d) NEWPORT, ARKANSAS.—(1) Notwithstanding section 16 of the Federal Airport Act (as in effect on December 17, 1947), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated December 17, 1947, or any other deed of conveyance dated after such date and before the date of enactment of this section, under which the United States conveyed certain property to Newport, Arkansas, for airport purposes.

(2) Any release granted by the Secretary of Transportation under paragraph (1) of this subsection shall be subject to the following conditions:

(A) Newport, Arkansas, shall agree that in conveying any interest in the property which the United States conveyed to the city by a deed described in paragraph (1) the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary).

(B) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

SEC. 531. CONTINUATION OF CERTAIN CERTIFICATES.

Notwithstanding any other provision of law or of any certificate issued by the Civil Aeronautics Board to the contrary, any certificate to engage in temporary air transportation which was issued under section 401(d)(8) of the Federal Aviation Act of 1958 or pur-

suant to the Trans-Atlantic Route Proceeding, CAB Docket Number 25908, and any certificate which was issued in the California/Southwest-Mexico Route Proceeding, CAB Docket Number 32665, and which is in effect on the date of enactment of this title shall be effective for a period of two years beyond the period for which it was issued.

SEC. 532. STATE TAXATION.

[Amendments to other laws: Omitted.]

SEC. 533. DENIAL OF FUNDS FOR PROJECTS USING PRODUCTS OR SERVICES OF FOREIGN COUNTRIES THAT DENY FAIR MARKET OPPORTUNITIES.

(a) IN GENERAL.—

(1) **PROHIBITION ON FUNDING.**—No funds made available under this Act may be used to fund any project which uses any product or service of a foreign country during any period in which such foreign country is listed by the United States Trade Representative under subsection (c).

(2) **LIMITATION ON APPLICABILITY.**—Paragraph (1) shall not apply with respect to the use of a product or service in a project if the Secretary determines that—

(A) the application of paragraph (1) to such product, service, or project would not be in the public interest,

(B) products of the same class or kind as such product or service are not produced or offered in the United States, or in any foreign country that is not listed under subsection (c), in sufficient and reasonably available quantities and of a satisfactory quality, or

(C) exclusion of such product or service from the project would increase the cost of the overall project contract by more than 20 percent.

(b) DETERMINATIONS.—

(1) **DEADLINE.**—By no later than the date which is 30 days after the date on which each report is submitted to the Congress under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)), the United States Trade Representative shall make a determination with respect to each foreign country of whether or not such foreign country—

(A) denies fair and equitable market opportunities for products and suppliers of the United States in procurement, or

(B) denies fair and equitable market opportunities for United States bidders,

for construction projects that cost more than \$500,000 and are funded (in whole or in part) by the government of such foreign country.

(2) **INFORMATION CONSIDERED.**—In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181 of the Trade Act of 1974 and such other information as the United States Trade Representative considers to be relevant.

(c) LISTING OF FOREIGN COUNTRIES.—

(1) **GENERAL RULE.**—The United States Trade Representative shall maintain a list of each foreign country with respect to which an affirmative determination is made under subsection (b).

(2) **REMOVAL FROM LIST.**—Any foreign country that is added to the list maintained under paragraph (1) shall remain on the list until the United States Trade Representative determines that such foreign country does permit the fair and equitable market opportunities described in subparagraphs (A) and (B) of subsection (b)(1).

(3) **PUBLICATION.**—The United States Trade Representative shall annually publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made between annual publications of the entire list.

(d) **SPECIAL RULES.**—

(1) For purposes of this section, each foreign instrumentality, and each territory or possession of a foreign country, that is administered separately for customs purposes shall be treated as a separate foreign country.

(2) For purposes of this section, any article that is produced or manufactured (in whole or in substantial part) in a foreign country shall be considered to be a product of such foreign country.

(3) For purposes of this section, any service provided by a person that is a national of a foreign country, or is controlled by nationals of a foreign country, shall be considered to be a service of such foreign country. [49 U.S.C. App. 2226]

SEC. 534. STATE BLOCK GRANT PILOT PROGRAM.

(a) **PROMULGATION OF REGULATIONS; EFFECTIVE PERIOD.**—Not later than 180 days after the date of the enactment of this section, the Secretary shall promulgate regulations to implement a State block grant pilot program to become effective on October 1, 1989. Such program shall not be effective after September 30, 1991.

(b) **ASSUMPTION OF CERTAIN RESPONSIBILITIES.**—Such regulations shall provide that the Secretary may designate not more than 3 qualified States to assume administrative responsibility for all airport grant funding available under this title, other than funding which has been designated for use at primary airports.

(c) **SELECTION OF STATE PARTICIPANTS.**—The Secretary shall select States for participation in such program on the basis of applications submitted to the Secretary. The Secretary shall select a State only if the Secretary determines that the State—

(1) has an agency or organization capable of administering effectively any block grant made under this section;

(2) uses a satisfactory airport system planning process;

(3) uses a programming process acceptable to the Secretary;

(4) has agreed to comply with Federal procedural and other standard requirements for administering any such block grant; and

(5) has agreed to provide the Secretary with such program information as the Secretary may require.

Before determining that any planning process is satisfactory or any programming process is acceptable, the Secretary shall ensure that such process provides for meeting critical safety and security needs and that the programming process ensures that the needs of the national airport system will be addressed in deciding to which projects funds will be provided.

(d) REVIEW AND REPORT.—The Secretary shall conduct an ongoing review of the program established under this section, and shall, not later than 90 days before its scheduled termination, report to Congress the results of such review, together with recommendations for further action relating to the program. [49 U.S.C. App. 2227]

TAX PROVISIONS RELATING TO AIR TRANSPORTATION

INTERNAL REVENUE CODE OF 1986

SEC. 4041. IMPOSITION OF TAX.

* * * * *

(c) NONCOMMERCIAL AVIATION.—

(1) **TAX ON NONGASOLINE FUELS WHERE NO TAX IMPOSED ON FUEL UNDER SECTION 4091.**—There is hereby imposed a tax of 14 cents a gallon upon any liquid (other than any product taxable under section 4081)—

(A) sold by any person to an owner, lessee, or other operator of an aircraft, for use as a fuel in such aircraft in non-commercial aviation; or

(B) used by any person as a fuel in an aircraft in non-commercial aviation, unless there was a taxable sale of such liquid under this section.

No tax shall be imposed by this paragraph on the sale or use of any liquid if there was a taxable sale of such liquid under section 4091.

(2) **GASOLINE.**—There is hereby imposed a tax (at the rate specified in paragraph (3)) upon any product taxable under section 4081—

(A) sold by any person to an owner, lessee, or other operator of an aircraft, for use as a fuel in such aircraft in non-commercial aviation; or

(B) used by any person as a fuel in an aircraft in non-commercial aviation, unless there was a taxable sale of such product under subparagraph (A).

The tax imposed by this paragraph shall be in addition to any tax imposed under section 4081.

(3) **RATE OF TAX.**—The rate of tax imposed by paragraph (2) on any gasoline is the excess of 12 cents a gallon over the Highway Trust Fund financing rate at which tax was imposed on such gasoline under section 4081.

(4) **DEFINITION OF NONCOMMERCIAL AVIATION.**—For purposes of this chapter, the term “noncommercial aviation” means any use of an aircraft, other than use in business of transporting persons or property for compensation or hire by air. The term also includes any use of an aircraft in a business described in the preceding sentence, which is properly allocable to any transportation exempt from the taxes imposed by sections 4261 and 4271 by reason of section 4281 or 4282.

(5) **TERMINATION.**—The taxes imposed by paragraphs (1) and (2) shall apply during the period beginning on September 1, 1982, and ending on December 31, 1990.

(6) **REDUCTION IN RATES OF TAX IN CERTAIN CIRCUMSTANCES.**—For reduction of rates of taxes imposed by paragraphs (1) and (2) in certain circumstances, see section 4283.

(d) **ADDITIONAL TAXES TO FUND LEAKING UNDERGROUND STORAGE TANK TRUST FUND.**—

(1) **TAX ON SALES AND USES SUBJECT TO TAX UNDER SUBSECTION (a).**—In addition to the taxes imposed by subsection (a), there is hereby imposed a tax of 0.1 cent a gallon on the sale or use of any liquid (other than liquefied petroleum gas) if tax is imposed by subsection (a) on such sale or use.

(2) **TAX ON DIESEL FUEL USED IN TRAINS.**—There is hereby imposed a tax of 0.1 cent a gallon on any liquid (other than a product taxable under section 4081)—

(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such liquid under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if there was a taxable sale of such liquid under section 4091.

(3) **LIQUIDS USED IN AVIATION.**—In addition to the taxes imposed by subsection (c), there is hereby imposed a tax of 0.1 cent a gallon on any liquid (other than any product taxable under section 4081)—

(A) sold by any person to an owner, lessee, or other operator of an aircraft for use as a fuel in such aircraft, or

(B) used by any person as a fuel in an aircraft unless there was a taxable sale of such liquid under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if there was a taxable sale of such liquid under section 4091.

(4) **TERMINATION.**—The taxes imposed by this subsection shall not apply during any period during which the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 does not apply.

(e) **ADDITIONAL TAX.**—If a liquid on which tax was imposed on the sale thereof is taxable at a higher rate under subsection (c)(1) of this section on the use thereof, there is hereby imposed a tax equal to the difference between the tax so imposed and the tax payable at such higher rate.

(f) **EXEMPTION FOR FARM USE.**—

(1) **EXEMPTION.**—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use or used on a farm for farming purposes.

(2) **USE ON A FARM FOR FARMING PURPOSES.**—For purposes of paragraph (1) of this subsection, use on a farm for farming purposes shall be determined in accordance with paragraphs (1), (2), and (3) of section 6420(c).

(3) **TERMINATION.**—Except with respect to the taxes imposed by subsection (d), paragraph (1) shall not apply on and after October 1, 1993.

(g) **OTHER EXEMPTIONS.**—Under regulations prescribed by the Secretary, no tax shall be imposed under this section—

(1) on any liquid sold for use or used as supplies for vessels or aircraft (within the meaning of section 4221(d)(3));

(2) with respect to the sale of any liquid for the exclusive use of any State, any political subdivision of a State, or the District of Columbia, or with respect to the use by any of the foregoing of any liquid as a fuel;

(3) upon the sale of any liquid for export, or for shipment to a possession of the United States, and in due course so exported or shipped; and

(4) with respect to the sale of any liquid to a nonprofit educational organization for its exclusive use, or with respect to the use by a nonprofit educational organization of any liquid as a fuel.

For purposes of paragraph (4), the term "nonprofit educational organization" means an educational organization described in section 170(b)(1)(A)(ii) which is exempt from income tax under section 501(a). The term also includes a school operated as an activity of an organization described in section 501(c)(3) which is exempt from income tax under section 501(a), if such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. Except with respect to the taxes imposed by subsection (d), paragraphs (2) and (4) shall not apply on and after October 1, 1993.

(h) EXEMPTION FOR USE BY CERTAIN AIRCRAFT MUSEUMS.—

(1) EXEMPTION.—Under regulations prescribed by the Secretary or his delegate, no tax shall be imposed under this section on any liquid sold for use or used by an aircraft museum in an aircraft or vehicle owned by such museum and used exclusively for purposes set forth in paragraph (2)(C).

(2) DEFINITION OF AIRCRAFT MUSEUM.—For purposes of this subsection, the term "aircraft museum" means an organization—

(A) described in section 501(c)(3) which is exempt from income tax under section 501(a),

(B) operated as a museum under charter by a State or the District of Columbia, and

(C) operated exclusively for the procurement, care, and exhibition of aircraft of the type used for combat or transport in World War II.

(i) REGISTRATION.—If any liquid is sold by any person for use as a fuel in an aircraft, it shall be presumed for purposes of this section that a tax imposed by this section applies to the sale of such liquid unless the purchaser is registered in such manner (and furnishes such information in respect of the use of the liquid) as the Secretary shall by regulations provide.

(j) SALES BY UNITED STATES, ETC.—The taxes imposed by this section shall apply with respect to liquid sold at retail by the United States, or by any agency or instrumentality of the United States, unless sales by such agency or instrumentality are by statute specifically exempted from such taxes.

(k) FUELS CONTAINING ALCOHOL.—

(1) **IN GENERAL.**—Under regulations prescribed by the Secretary, in the case of the sale or use of any liquid at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3))—

(A) subsection (a)(1) shall be applied by substituting “9 cents” for “15 cents”, and

(B) subsection (a)(2) shall be applied by substituting “3 cents” for “9 cents”, and

(C) no tax shall be imposed by subsection (c).

(2) **LATER SEPARATION.**—If any person separates the liquid fuel from a mixture of the liquid fuel and alcohol to which paragraph (1) applied, such separation shall be treated as a sale of the liquid fuel. Any tax imposed on such sale shall be reduced by the amount (if any) of the tax imposed on the sale of such mixture.

(3) **TERMINATION.**—Paragraph (1) shall not apply to any sale or use after September 30, 1993.

(1) **EXEMPTION FOR CERTAIN HELICOPTER USES.**—No tax shall be imposed under this section on any liquid sold for use in, or used in, a helicopter for the purposes of providing transportation with respect to which the requirements of subsection (e) or (f) of section 4261 are met.

(m) **CERTAIN ALCOHOL FUELS.**—

(1) **IN GENERAL.**—In the case of the sale or use of any partially exempt methanol or ethanol fuel—

(A) subsection (a)(2) shall be applied by substituting “4½ cents” for “9 cents”, and

(B) no tax shall be imposed by subsection (c).

(2) **PARTIALLY EXEMPT METHANOL OR ETHANOL FUEL.**—The term “partially exempt methanol or ethanol fuel” means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from natural gas.

* * * * *

SEC. 4261. IMPOSITION OF TAX.

(a) **IN GENERAL.**—There is hereby imposed upon the amount paid for taxable transportation (as defined in section 4262) of any person a tax equal to 8 percent of the amount so paid. In the case of amounts paid outside of the United States for taxable transportation, the tax imposed by this subsection shall apply only if such transportation begins and ends in the United States.

(b) **SEATS, BERTHS, ETC.**—There is hereby imposed upon the amount paid for seating or sleeping accommodations in connection with transportation and with respect to which a tax is imposed by subsection (a), a tax equal to 8 percent of the amount so paid.

(c) **USE OF INTERNATIONAL TRAVEL FACILITIES.**—There is hereby imposed a tax of \$3 upon any amount paid (whether within or without the United States) for any transportation of any person by air, if such transportation begins in the United States. This subsection shall not apply to any transportation all of which is taxable under subsection (a) (determined without regard to sections 4281 and 4282).

(d) **BY WHOM PAID.**—Except as provided in section 4263(a), the taxes imposed by this section shall be paid by the person making the payment subject to the tax.

(e) **EXEMPTION FOR CERTAIN HELICOPTER USES.**—No tax shall be imposed under subsection (a) or (b) on air transportation by helicopter for the purpose of—

(1) transporting individuals, equipment, or suppliers in—

(A) the exploration for, or the development or removal of, hard minerals, or

(B) the exploration for oil or gas, or

(2) the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations), but only if the helicopter does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to the Airport and Airway Improvement Act of 1982 during such use.

(f) **EXEMPTION FOR CERTAIN EMERGENCY MEDICAL TRANSPORTATION.**—No tax shall be imposed under this section or section 4271 on any air transportation by helicopter for the purpose of providing emergency medical services if such helicopter—

(1) does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970 during such transportation, and

(2) does not otherwise use services provided pursuant to the Airport and Airway Improvement Act of 1982 during such transportation.

(g) **TERMINATION.**—The taxes imposed by this section shall apply with respect to transportation beginning after August 31, 1982, and before January 1, 1991.

SEC. 4262. DEFINITION OF TAXABLE TRANSPORTATION.

(a) **TAXABLE TRANSPORTATION; IN GENERAL.**—For purposes of this part, except as provided in subsection (b), the term “taxable transportation” means—

(1) transportation by air which begins in the United States or in the 225-mile zone and ends in the United States or in the 225-mile zone; and

(2) in the case of transportation by air other than transportation described in paragraph (1), that portion of such transportation which is directly or indirectly from one port or station in the United States to another port or station in the United States, but only if such portion is not a part of uninterrupted international air transportation (within the meaning of subsection (c)(3)).

(b) **EXCLUSION OF CERTAIN TRAVEL.**—For purposes of this part, the term “taxable transportation” does not include that portion of any transportation by air which meets all 4 of the following requirements:

(1) such portion is outside the United States;

(2) neither such portion nor any segment thereof is directly or indirectly—

(A) between (i) a point where the route of the transportation leaves or enters the continental United States, or (ii) a port or station in the 225-mile zone, and

- (B) a port or station in the 225-mile zone;
- (3) such portion—
- (A) begins at either (i) the point where the route of the transportation leaves the United States, or (ii) a port or station in the 225-mile zone, and
- (B) ends at either (i) the point where the route of the transportation enters the United States, or (ii) a port or station in the 225-mile zone; and
- (4) a direct line from the point (or the port or station) specified in paragraph (3)(A), to the point (or the port or station) specified in paragraph (3)(B), passes through or over a point which is not within 225 miles of the United States.
- (c) DEFINITIONS.—For purposes of this section—
- (1) CONTINENTAL UNITED STATES.—The term “continental United States” means the District of Columbia and the States other than Alaska and Hawaii.
- (2) 225-MILE ZONE.—The term “225-mile zone” means that portion of Canada and Mexico which is not more than 225 miles from the nearest point in the continental United States.
- (3) UNINTERRUPTED INTERNATIONAL AIR TRANSPORTATION.—The term “uninterrupted international air transportation” means any transportation by air which is not transportation described in subsection (a)(1) and in which—
- (A) the scheduled interval between (i) the beginning or end of the portion of such transportation which is directly or indirectly from one port or station in the United States to another port or station in the United States and (ii) the end or beginning of the other portion of such transportation is not more than 12 hours, and
- (B) the scheduled interval between the beginning or end and the end or beginning of any two segments of the portion of such transportation referred to in subparagraph (A)(i) is not more than 12 hours.
- For purposes of this paragraph, in the case of personnel of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard traveling in uniform at their own expense when on official leave, furlough, or pass, the scheduled interval described in subparagraph (A) shall be deemed to be not more than 12 hours if a ticket for the subsequent portion of such transportation is purchased within 12 hours after the end of the earlier portion of such transportation and the purchaser accepts and utilizes the first accommodations actually available to him for such subsequent portion.
- (d) TRANSPORTATION.—For purposes of this part, the term “transportation” includes layover or waiting time and movement of the aircraft in deadhead service.
- (e) AUTHORITY TO WAIVE 225-MILE ZONE PROVISIONS.—
- (1) IN GENERAL.—If the Secretary of the Treasury determines that Canada or Mexico has entered into a qualified agreement—
- (A) the Secretary shall publish a notice of such determination in the Federal Register, and

(B) effective with respect to transportation beginning after the date specified in such notice, to the extent provided in the agreement, the term "225-mile zone" shall not include part or all of the country with respect to which such determination is made.

(2) **TERMINATION OF WAIVER.**—If a determination was made under paragraph (1) with respect to any country and the Secretary of the Treasury subsequently determines that the agreement is no longer in effect or that the agreement is no longer a qualified agreement—

(A) the Secretary shall publish a notice of such determination in the Federal Register, and

(B) subparagraph (B) of paragraph (1) shall cease to apply with respect to transportation beginning after the date specified in such notice.

(3) **QUALIFIED AGREEMENT.**—For purposes of this subsection, the term "qualified agreement" means an agreement between the United States and Canada or Mexico (as the case may be)—

(A) setting forth that portion of such country which is not to be treated as within the 225-mile zone, and

(B) providing that the tax imposed by such country on transportation described in subparagraph (A) will be at a level which the Secretary of the Treasury determines to be appropriate.

(4) **REQUIREMENT THAT AGREEMENT BE SUBMITTED TO CONGRESS.**—No notice may be published under paragraph (1)(A) with respect to any qualified agreement before the date 90 days after the date on which a copy of such agreement was furnished to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 4263. SPECIAL RULES.

(a) **PAYMENTS MADE OUTSIDE THE UNITED STATES FOR PREPAID ORDERS.**—If the payment upon which tax is imposed by section 4261 is made outside the United States for a prepaid order, exchange order, or similar order, the person furnishing the initial transportation pursuant to such order shall collect the amount of the tax.

(b) **TAX DEDUCTED UPON REFUNDS.**—Every person who refunds any amount with respect to a ticket or order which was purchased without payment of the tax imposed by section 4261 shall deduct from the amount refundable, to the extent available, any tax due under such section as a result of the use of a portion of the transportation purchased in connection with such ticket or order, and shall report to the Secretary the amount of any such tax remaining uncollected.

(c) **PAYMENT OF TAX.**—Where any tax imposed by section 4261 is not paid at the time payment for transportation is made, then, under regulations prescribed by the Secretary, to the extent that such tax is not collected under any other provision of this subchapter—

(1) such tax shall be paid by the person paying for the transportation or by the person using the transportation;

(2) such tax shall be paid within such time as the Secretary shall prescribe by regulations after whichever of the following first occurs:

(A) the rights to the transportation expire; or

(B) the time when the transportation becomes subject to tax; and

(3) payment of such tax shall be made to the Secretary, to the person to whom the payment for transportation was made, or, in the case of transportation other than transportation described in section 4262(a)(1), to any person furnishing any portion of such transportation.

(d) **APPLICATION OF TAX.**—The tax imposed by section 4261 shall apply to any amount paid within the United States for transportation of any person by air unless the taxpayer establishes, pursuant to regulations prescribed by the Secretary, at the time of payment for the transportation, that the transportation is not transportation in respect of which tax is imposed by section 4261.

(e) **ROUND TRIPS.**—In applying this subchapter to a round trip, such round trip shall be considered to consist of transportation from the point of departure to the destination, and of separate transportation thereafter.

(f) **TRANSPORTATION OUTSIDE THE NORTHERN PORTION OF THE WESTERN HEMISPHERE.**—In applying this subchapter to transportation any part of which is outside the northern portion of the Western Hemisphere, if the route of such transportation leaves and re-enters the northern portion of the Western Hemisphere, such transportation shall be considered to consist of transportation to a point outside such northern portion, and of separate transportation thereafter. For purposes of this subsection, the term “northern portion of the Western Hemisphere” means the area lying west of the 30th meridian west of Greenwich, east of the international date-line, and north of the Equator, but not including any country of South America.

PART II—PROPERTY

Sec. 4271. Imposition of tax.

Sec. 4272. Definition of taxable transportation, etc.

SEC. 4271. IMPOSITION OF TAX.

(a) **IN GENERAL.**—There is hereby imposed upon the amount paid within or without the United States for the taxable transportation (as defined in section 4272) of property a tax equal to 5 percent of the amount so paid for such transportation. The tax imposed by this subsection shall apply only to amounts paid to a person engaged in the business of transporting property by air for hire.

(b) **BY WHOM PAID.**—

(1) **IN GENERAL.**—Except as provided by paragraph (2), the tax imposed by subsection (a) shall be paid by the person making the payment subject to tax.

(2) **PAYMENTS MADE OUTSIDE THE UNITED STATES.**—If a payment subject to tax under subsection (a) is made outside the United States and the person making such payment does not pay such tax, such tax—

(A) shall be paid by the person to whom the property is delivered in the United States by the person furnishing the last segment of the taxable transportation in respect of which such tax is imposed, and

(B) shall be collected by the person furnishing the last segment of such taxable transportation.

(c) **DETERMINATION OF AMOUNTS PAID IN CERTAIN CASES.**—For purposes of this section, in any case in which a person engaged in the business of transporting property by air for hire and one or more other persons not so engaged jointly provide services which include taxable transportation of property, and the person so engaged receives, for the furnishing of such taxable transportation, a portion of the receipts from the joint providing of such services, the amount paid for the taxable transportation shall be treated as being the sum of (1) the portion of the receipts so received, and (2) any expenses incurred by any of the persons not so engaged which are properly attributable to such taxable transportation and which are taken into account in determining the portion of the receipts so received.

(d) **TERMINATION.**—The tax imposed by subsection (a) shall apply with respect to transportation beginning after August 31, 1982, and before January 1, 1991.

SEC. 4272. DEFINITION OF TAXABLE TRANSPORTATION, ETC.

(a) **IN GENERAL.**—For purposes of this part, except as provided in subsection (b), the term “taxable transportation” means transportation by air which begins and ends in the United States.

(b) **EXCEPTIONS.**—For purposes of this part, the term “taxable transportation” does not include—

(1) that portion of any transportation which meets the requirements of paragraphs (1), (2), (3), and (4) of section 4262(b), or

(2) under regulations prescribed by the Secretary, transportation of property in the course of exportation (including shipment to a possession of the United States) by continuous movement, and in due course so exported.

(c) **EXCESS BAGGAGE OF PASSENGERS.**—For purposes of this part, the term “property” does not include excess baggage accompanying a passenger traveling on an aircraft operated on an established line.

(d) **TRANSPORTATION.**—For purposes of this part, the term “transportation” includes layover or waiting time and movement of the aircraft in deadhead service.

PART III—SPECIAL PROVISIONS APPLICABLE TO TAXES ON TRANSPORTATION BY AIR

Sec. 4281. Small aircraft on nonestablished lines.

Sec. 4282. Transportation by air for other members of affiliated group.

Sec. 4283. Reduction in aviation-related taxes in certain cases.

SEC. 4281. SMALL AIRCRAFT ON NONESTABLISHED LINES.

The taxes imposed by sections 4261 and 4271 shall not apply to transportation by an aircraft having a maximum certificated take-off weight of 6,000 pounds or less, except when such aircraft is op-

erated on an established line. For purposes of the preceding sentence, the term "maximum certificated takeoff weight" means the maximum such weight contained in the type certificate or airworthiness certificate.

SEC. 4282. TRANSPORTATION BY AIR FOR OTHER MEMBERS OF AFFILIATED GROUP.

(a) **GENERAL RULE.**—Under regulations prescribed by the Secretary, if—

(1) one member of an affiliated group is the owner or lessee of an aircraft, and

(2) such aircraft is not available for hire by persons who are not members of such group,

no tax shall be imposed under section 4261 or 4271 upon any payment received by one member of the affiliated group from another member of such group for services furnished to such other member in connection with the use of such aircraft.

(b) **AFFILIATED GROUP.**—For purposes of subsection (a), the term "affiliated group" has the meaning assigned to such term by section 1504(a), except that all corporations shall be treated as includible corporations (without any exclusion under section 1504(b)).

SEC. 4283. REDUCTION IN AVIATION-RELATED TAXES IN CERTAIN CASES.

(a) **REDUCTION IN RATES.**—If the funding percentage is less than 85 percent, with respect to any taxable event occurring during 1990—

(1) subsections (a) and (b) of section 4261 (relating to tax on transportation of persons by air) shall each be applied by substituting "4 percent" for "8 percent",

(2) subsection (a) of section 4271 (relating to tax on transportation of property by air) shall be applied by substituting "2.5 percent" for "5 percent",

(3) paragraph (1) of section 4041(c) (relating to tax on certain fuels used in noncommercial aviation) shall be applied by substituting "7 cents" for "14 cents", and

(4) paragraph (2) of section 4041(c) (relating to tax on gasoline used in noncommercial aviation) shall not apply.

(b) **FUNDING PERCENTAGE.**—

(1) **IN GENERAL.**—For purposes of this section, the funding percentage is the percentage (determined by the Secretary) which—

(A) the sum of—

(i) the aggregate amounts obligated under section 505 of the Airport and Airway Improvement Act of 1982 for fiscal years 1988 and 1989, and

(ii) the aggregate amounts appropriated under subsections (a) and (b) of section 506 of such Act for such fiscal years, is of

(B) the sum of—

(i) the aggregate amounts authorized to be obligated under such section 505 for such fiscal years, and

(ii) the aggregate amounts authorized to be appropriated under subsections (a) and (b) of such section 506 for such fiscal years.

(2) **RULES FOR APPLYING PARAGRAPH (1).**—

(A) **TREATMENT OF PRIOR YEAR AMOUNTS.**—For purposes of paragraph (1), an amount shall be treated as authorized, obligated, or appropriated only for the 1st fiscal year for which it is authorized, obligated, or appropriated, as the case may be.

(B) **TREATMENT OF SEQUESTERED AMOUNTS.**—The determination under paragraph (1)(A) shall be made without regard to the sequestration of any amount described therein pursuant to an order under part C of title II of the Balanced Budget and Emergency Deficit Control Act of 1985 (or any successor law).

(3) **DETERMINATION OF FUNDING PERCENTAGE.**—

(A) **IN GENERAL.**—Not later than December 1, 1989, the Secretary shall determine—

(i) the funding percentage, and

(ii) whether the rate reductions under this section shall apply to taxable events occurring during 1990.

(B) **DETERMINATIONS TO BE PUBLISHED IN FEDERAL REGISTER.**—As soon as practicable after making the determinations under subparagraph (A), the Secretary shall publish such determinations in the Federal Register.

(c) **TAXABLE EVENT.**—For purposes of this section—

(1) **TAXABLE TRANSPORTATION BY AIR.**—In the case of the taxes imposed by sections 4261 and 4271, the taxable event shall be treated as occurring when the payment for the taxable transportation is made.

(2) **SALE OR USE OF FUEL.**—In the case of the taxes imposed by section 4041(c), the taxable event shall be the sale or use on which tax is imposed.

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Subchapter E—Special Provisions Applicable to Services and Facilities Taxes

Sec. 4291. Cases where persons receiving payment must collect tax.

Sec. 4293. Exemption for United States and possessions.

SEC. 4291. CASES WHERE PERSONS RECEIVING PAYMENT MUST COLLECT TAX.

Except as otherwise provided in section 4263(a), every person receiving any payment for facilities or services on which a tax is imposed upon the payor thereof under this chapter shall collect the amount of the tax from the person making such payment.

SEC. 4293. EXEMPTION FOR UNITED STATES AND POSSESSIONS.

The Secretary of the Treasury may authorize exemption from the taxes imposed by section 4041, section 4051, chapter 32 (other than the taxes imposed by sections 4064 and 4121) and subchapter B of chapter 33, as to any particular article, or service or class of articles or services, to be purchased for the exclusive use of the United States, if he determines that the imposition of such taxes with respect to such articles or services, or class of articles or services will cause substantial burden or expense which can be avoided

by granting tax exemption and that full benefit of such exemption, if granted, will accrue to the United States.

* * * * *

SEC. 7275. PENALTY FOR OFFENSES RELATING TO CERTAIN AIRLINE TICKETS AND ADVERTISING.

(a) **TICKETS.**—In the case of transportation by air all of which is taxable transportation (as defined in section 4264), the ticket for such transportation shall show the total of—

- (1) the amount paid for such transportation, and
- (2) the taxes imposed by subsections (a) and (b) of section 4261.

(b) **ADVERTISING.**—In the case of transportation by air all of which is taxable transportation (as defined in section 4262) or would be taxable transportation if section 4262 did not include subsection (b) thereof, any advertising made by or on behalf of any person furnishing such transportation (or offering to arrange such transportation) which states the cost of such transportation shall—

- (1) state such cost as the total of (A) the amount to be paid for such transportation, and (B) the taxes imposed by sections 4261(a), (b), and (c), and

- (2) if any such advertising states separately the amount to be paid for such transportation or the amount of such taxes, shall state such total at least as prominently as the more prominently stated of the amount to be paid for such transportation or the amount of such taxes and shall describe such taxes substantially as “user taxes to pay for airport construction and airway safety and operation.”

(c) **PENALTY.**—Any person who violates any provision of subsection (a) or (b) is, for each violation, guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$100.

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AIRPORT AND AIRWAY TRUST FUND

INTERNAL REVENUE CODE OF 1986

Subtitle I—Trust Fund Code

SEC. 9500. SHORT TITLE.

This subtitle may be cited as the Trust Fund Code of 1981.

CHAPTER 98—TRUST FUND CODE

Subchapter A. Establishment of Trust Funds.

Subchapter B. General provisions.

Subchapter A—Establishment of Trust Funds

Sec. 9501. Black Lung Disability Trust Fund.

Sec. 9502. Airport and Airway Trust Fund.

Sec. 9503. Highway Trust Fund.

* * * * *

SEC. 9502. AIRPORT AND AIRWAY TRUST FUND.

(a) **CREATION OF TRUST FUND.**—There is established in the Treasury of the United States a trust fund to be known as the “Airport and Airway Trust Fund”, consisting of such amounts as may be appropriated or credited to the Airport and Airway Trust Fund as provided in this section or section 9602(b).

(b) **TRANSFER TO AIRPORT AND AIRWAY TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.**—There is hereby appropriated to the Airport and Airway Trust Fund—

(1) amounts equivalent to the taxes received in the Treasury after August 31, 1982, and before January 1, 1991, under subsections (c) and (e) of section 4041 (taxes on aviation fuel) and under sections 4261 and 4271 (taxes on transportation by air);

(2) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after August 31, 1982, January 1, 1991, under section 4081 (to the extent attributable to the Highway Trust Fund financing rate), with respect to gasoline used in aircraft;

(3) amounts determined by the Secretary to be equivalent to the taxes received in the Treasury before January 1, 1991, under section 4091 (to the extent attributable to the Airport and Airway Trust Fund financing rate), and

(4) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after August 31, 1982, January 1, 1991 under section 4071, with respect to tires of the types used on aircraft.

(c) **APPROPRIATION OF ADDITIONAL SUMS.**—There are hereby authorized to be appropriated to the Airport and Airway Trust Fund

such additional sums as may be required to make the expenditures referred to in subsection (d) of this section.

(d) EXPENDITURES FROM AIRPORT AND AIRWAY TRUST FUND.—

(1) AIRPORT AND AIRWAY PROGRAM.—Amounts in the Airport and Airway Trust Fund shall be available, as provided by appropriation Acts, for making expenditures before October 1, 1992, to meet those obligations of the United States—

(A) incurred under title I of the Airport and Airway Development Act of 1970 or of the Airport and Airway Development Act Amendments of 1976 or of the Aviation Safety and Noise Abatement Act of 1979 (as such Acts were in effect on the date of enactment of the Fiscal Year 1981 Airport Development Authorization Act) or under the Fiscal Year 1981 Airport Development Authorization Act or the provisions of the Airport and Airway Improvement Act of 1982 or the Airport and Airway Safety and Capacity Expansion Act of 1987 (as such Acts were in effect on the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987);

(B) heretofore or hereafter incurred under the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 et seq.), which are attributable to planning, research and development, construction, or operation and maintenance of—

- (i) air traffic control,
- (ii) air navigation,
- (iii) communications, or
- (iv) supporting services,

for the airway system; or

(C) for those portions of the administrative expenses of the Department of Transportation which are attributable to activities described in subparagraph (A) or (B).

(2) TRANSFERS FROM AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF CERTAIN REFUNDS.—The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the general fund of the Treasury amounts equivalent to the amounts paid after August 31, 1982, in respect of fuel used in aircraft, under section 6420 (relating to amounts paid in respect of gasoline used on farms), 6421 (relating to amounts paid in respect of gasoline used for certain non-highway purposes), or 6427 (relating to fuels not used for taxable purposes).

(3) TRANSFERS FROM THE AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF CERTAIN SECTION 34 CREDITS.—The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the general fund of the Treasury amounts equivalent to the credits allowed under section 34 with respect to fuel used after August 31, 1982. Such amounts shall be transferred on the basis of estimates by the Secretary of the Treasury, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the credits allowed.

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Subchapter B—General Provisions

Sec. 9601. Transfer of amounts.

Sec. 9602. Management of Trust Funds.

SEC. 9601. TRANSFER OF AMOUNTS.

The amounts appropriated by any section of subchapter A to any Trust Fund established by such subchapter shall be transferred at least monthly from the general fund of the Treasury to such Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in such section. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

SEC. 9602. MANAGEMENT OF TRUST FUNDS.

(a) REPORT.—It shall be the duty of the Secretary of the Treasury to hold each Trust Fund established by subchapter A, and (after consultation with any other trustees of the Trust Fund) to report to the Congress each year on the financial condition and the results of the operations of each such Trust Fund during the preceding fiscal year and on its expected condition and operations during the next 5 fiscal years. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(b) INVESTMENT.—

(1) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest such portion of any Trust Fund established by subchapter A as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

(A) on original issue at the issue price, or

(B) by purchase of outstanding obligations at the market price.

(2) SALE OF OBLIGATIONS.—Any obligation acquired by a Trust Fund established by subchapter A may be sold by the Secretary of the Treasury at the market price.

(3) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in a Trust Fund established by subchapter A shall be credited to and form a part of the Trust Fund.

INDEPENDENT SAFETY BOARD ACT OF 1974

INDEPENDENT SAFETY BOARD ACT OF 1974

Public Law 93-633; 88 Stat. 2166; 49 U.S.C. App. 1901 et seq.

AN ACT To regulate commerce by improving the protections afforded the public against risks connected with the transportation of hazardous materials, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Transportation Safety Act of 1974".

* * * * *

TITLE III—INDEPENDENT SAFETY BOARD

SHORT TITLE

SEC. 301. This title may be cited as the "Independent Safety Board Act of 1974".

FINDINGS

SEC. 302. The Congress finds and declares:

(1) The National Transportation Safety Board was established by statute in 1966 (Public Law 89-670; 80 Stat. 935) as an independent Government agency, located within the Department of Transportation, to promote transportation safety by conducting independent accident investigations and by formulating safety improvement recommendations.

(2) Proper conduct of the responsibilities assigned to this Board requires vigorous investigation of accidents involving transportation modes regulated by other agencies of Government; demands continual review, appraisal, and assessment of the operating practices and regulations of all such agencies; and calls for the making of conclusions and recommendations that may be critical of or adverse to any such agency or its officials. No Federal agency can properly perform such functions unless it is totally separate and independent from any other department, bureau, commission, or agency of the United States. [49 U.S.C. App. 1901]

NATIONAL TRANSPORTATION SAFETY BOARD

SEC. 303. (a) ESTABLISHMENT.—The National Transportation Safety Board (hereafter in this title referred to as the "Board"), previously established within the Department of Transportation, shall be an independent agency of the United States, in accordance with this section, on and after April 1, 1975.

(b) ORGANIZATION.—(1) The Board shall consist of five members, including a Chairman. Members of the Board shall be appointed by

the President, by and with the advice and consent of the Senate. No more than three members of the Board shall be of the same political party. At any given time, no less than three members of the Board shall be individuals who have been appointed on the basis of technical qualification, professional standing, and demonstrated knowledge in the fields of accident reconstruction, safety engineering, human factors, transportation safety, or transportation regulation.¹

(2) The terms of office of members of the Board shall be 5 years, except as otherwise provided in this paragraph. Any individual appointed to fill a vacancy occurring on the Board prior to the expiration of the term of office for which his predecessor was appointed shall be appointed for the remainder of that term. Upon the expiration of his term of office, a member shall continue to serve until his successor is appointed and shall have qualified. Individuals serving as members of the National Transportation Safety Board on the date of enactment of this title shall continue to serve as members of the Board until the expiration of their then current term of office. Any member of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(3) On or before January 1, 1976 (and thereafter as required), the President shall—

(A) designate, by and with the advice and consent of the Senate, an individual to serve as the Chairman of the Board (hereafter in this title referred to as the "Chairman"); and

(B) an individual to serve as Vice Chairman.

The Chairman and Vice Chairman each shall serve for a term of 2 years. The Chairman shall be the chief executive officer of the Board and shall exercise the executive and administrative functions of the Board with respect to the appointment and supervision of personnel employed by the Board; the distribution of business among such personnel and among any administrative units of the Board; and the use and expenditure of funds. The Vice Chairman shall act as Chairman in the event of the absence or incapacity of the Chairman or in case of a vacancy in the office of Chairman. The Chairman or Acting Chairman shall be governed by the general policies established by the Board, including any decisions, findings, determinations, rules, regulations, and formal resolutions.

(4) Three members of the Board shall constitute a quorum for the transaction of any function of the Board.

(5) The Board shall establish and maintain distinct and appropriately staffed bureaus, divisions, or offices to investigate and report on accidents involving each of the following modes of transportation: (A) aviation; (B) highway and motor vehicle; (C) railroad and tracked vehicle; and (D) pipeline. The Board shall, in addition, establish and maintain any other such office as is needed, including an office to investigate and report on the safe transportation of hazardous materials.

(c) GENERAL.—(1) The General Services Administration shall furnish the Board with such offices, equipment, supplies, and services

¹ The first section of Public Law 97-309 provided that "[t]he amendment made by the preceding sentence [inserting the last sentence of 303(b)(1)] shall not preclude the reappointment of any individual serving as a member of the Board on the date of enactment of this Act."

as it is authorized to furnish to any other agency or instrumentality of the United States.

(2) The Board shall have a seal which shall be judicially recognized.

(3) Subject to the civil service and classification laws, the Board is authorized to select, appoint, employ, and fix the compensation of such officers and employees, including investigators, attorneys, and administrative law judges, as shall be necessary to carry out its powers and duties under this title. [49 U.S.C. App. 1902]

GENERAL PROVISIONS

SEC. 304. (a) DUTIES OF BOARD.—The Board shall—

(1) investigate or cause to be investigated (in such detail as it shall prescribe), and determine the facts, conditions, and circumstances and the cause or probable cause or causes of any—

(A) aircraft accident which is within the scope of the functions, powers, and duties transferred from the Civil Aeronautics Board under section 6(d) of the Department of Transportation Act (49 U.S.C. 4655(d)) pursuant to title VII of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1441);

(B) highway accident, including any railroad grade crossing accident, that it selects in cooperation with the States;

(C) railroad accident in which there is a fatality, substantial property damage, or which involves a passenger train;

(D) pipeline accident in which there is a fatality or substantial property damage;

(E) major marine casualty, except one involving only public vessels, occurring on the navigable waters or territorial seas of the United States, or involving a vessel of the United States, in accordance with regulations to be prescribed jointly by the Board and the Secretary of the department in which the Coast Guard is operating. Nothing in this subparagraph shall be construed to eliminate or diminish any responsibility under any other Federal statute of the Secretary of the department in which the Coast Guard is operating: *Provided*, That any marine accident involving a public vessel and any other vessel shall be investigated and the facts, conditions, and circumstances, and the cause or probable cause determined and made available to the public by either the Board or the Secretary of the Department in which the Coast Guard is operating; and

(F) other accident which occurs in connection with the transportation of people or property which, in the judgment of the Board, is catastrophic, involves problems of a recurring character, or would otherwise carry out the policy of this title.

Any investigation of an accident conducted by the Board under this paragraph (other than subparagraph (E)) shall have priority over all other investigations of such accidents conducted by other Federal agencies. The Board shall provide for the appro-

priate participation by other Federal agencies in any such investigation, except that such agencies may not participate in the Board's determination of the probable cause of the accident. Nothing in this section impairs the authority of other Federal agencies to conduct investigations of an accident under applicable provisions of law or to obtain information directly from parties involved in, and witnesses to, the transportation accident. The Board and other Federal agencies shall assure that appropriate information obtained or developed in the course of their investigations is exchanged in a timely manner. The Board may request the Secretary of Transportation (hereafter in this title referred to as the "Secretary") to make investigations with regard to such accidents and to report to the Board the facts, conditions, and circumstances thereof (except in accidents where misfeasance or nonfeasance by the Federal Government is alleged), and the Secretary or his designees are authorized to make such investigations. Thereafter, the Board, utilizing such reports, shall make its determination of cause or probable cause under this paragraph;

(2) report in writing on the facts, conditions, and circumstances of each accident investigated pursuant to paragraph (1) of this subsection and cause such reports to be made available to the public at reasonable cost;

(3) issue periodic reports to the Congress, Federal, State, and local agencies concerned with transportation safety, and other interested persons recommending and advocating meaningful responses to reduce the likelihood of recurrence of transportation accidents similar to those investigated by the Board and proposing corrective steps to make the transportation of persons as safe and free from risk of injury as is possible, including steps to minimize human injuries from transportation accidents;

(4) initiate and conduct special studies and special investigations on matters pertaining to safety in transportation including human injury avoidance;

(5) assess and reassess techniques and methods of accident investigation and prepare and publish from time to time recommended procedures for accident investigations;

(6) establish by regulation requirements binding on persons reporting (A) accidents and aviation incidents subject to the Board's investigatory jurisdiction under this subsection, and (B) accidents and aviation incidents involving public aircraft other than aircraft of the Armed Forces and the Intelligence Agencies;

(7) evaluate, assess the effectiveness, and publish the findings of the Board with respect to the transportation safety consciousness and efficacy in preventing accidents of other Government agencies;

(8) evaluate the adequacy of safeguards and procedures concerning the transportation of hazardous materials and the performance of other Government agencies charged with assuring the safe transportation of such materials; and

(9) review on appeal (A) the suspension, amendment, modification, revocation, or denial of any operating certificate or license issued by the Secretary of Transportation under sections 602, 609, or 611(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1422, 1429, or, 1431(c)) and the revocation of any certificate of registration under section 501(e)(2) of such Act; and (B) the decisions of the Commandant of the Coast Guard, on appeals from the orders of any administrative law judge revoking, suspending, or denying a license, certificate, document, or register in proceedings under section 4450 of the Revised Statutes of the United States (46 U.S.C. 239); the Act of July 15, 1954 (46 U.S.C. 239 (a) and (b)); or section 4 of the Great Lakes Pilotage Act (46 U.S.C. 216(b)).

(b) **POWERS OF BOARD.**—(1) The Board, or upon the authority of the Board, any member thereof, any administrative law judge employed by or assigned to the Board, or any officer or employee duly designated by the Chairman, may, for the purpose of carrying out this title, hold such hearings, sit and act at such times and places, administer such oaths, and require by subpoena or otherwise the attendance and testimony of such witnesses and the production of such evidence as the Board or such officer or employee deems advisable. Subpoenas shall be issued under the signature of the Chairman, or his delegate, and may be served by any person designated by the Chairman. Witnesses summoned to appear before the Board shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Such attendance of witnesses and production of evidence may be required from any place in the United States to any designated place of such hearing in the United States.

(2) Any employee of the Board, upon presenting appropriate credentials and a written notice of inspection authority, is authorized to enter any property wherein a transportation accident has occurred or wreckage from any such accident is located and do all things therein necessary for a proper investigation, including examination or testing of any vehicle, rolling stock, track, or pipeline component or any part of any such item when such examination or testing is determined to be required for purposes of such investigation. Any examination or testing shall be conducted in such manner so as not to interfere with or obstruct unnecessarily the transportation services provided by the owner or operator of such vehicle, rolling stock, track, or pipeline component, and shall be conducted in such a manner so as to preserve, to the maximum extent feasible, any evidence relating to the transportation accidents, consistent with the needs of the investigation and with the cooperation of such owner or operator. The employee may inspect, at reasonable times, records, files, papers, processes, controls, and facilities relevant to the investigation of such accident. Each inspection, examination, or test shall be commenced and completed with reasonable promptness and the results of such inspection, examination, or test made available.

(3) In case of contumacy or refusal to obey a subpoena, an order, or an inspection notice of the Board, or of any duly designated employee thereof, by any person who resides, is found, or transacts

business within the jurisdiction of any district court of the United States, such district court shall, upon the request of the Board, have jurisdiction to issue to such person an order requiring such person to comply forthwith. Failure to obey such an order is punishable by such court as a contempt of court.

(4) The Board is authorized to enter into, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of the functions and the duties of the Board under this title, with any government entity or any person.

(5) The Board is authorized to obtain, and shall be furnished, with or without reimbursement, a copy of the report of the autopsy performed by State or local officials on any person who dies as a result of having been involved in a transportation accident within the jurisdiction of the Board and, if necessary, the Board may order the autopsy or seek other tests of such persons as may be necessary to the investigation of the accident: *Provided*, That to the extent consistent with the need of the accident investigation, provisions of local law protecting religious beliefs with respect to autopsies shall be observed.

(6) The Board is authorized to (A) use, on a reimbursable basis or otherwise, when appropriate, available services, equipment, personnel, and facilities of the Department of Transportation and of other civilian or military agencies and instrumentalities of the Federal Government; (B) confer with employees and use available services, records, and facilities of State, municipal, or local governments and agencies; (C) employ experts and consultants in accordance with section 3109 of title 5, United States Code; (D) appoint one or more advisory committees composed of qualified private citizens or officials of Federal, State, or local governments as it deems necessary or appropriate, in accordance with the Federal Advisory Committee Act (5 U.S.C. App. I); (E) accept voluntary and uncompensated services notwithstanding any other provision of law; (F) accept gifts or donations of money or property (real, personal, mixed, tangible, or intangible); (G) enter into contracts with public or private nonprofit entities for the conduct of studies related to any of its functions; and (H) require payment or other appropriate consideration from Federal agencies, and State, local, and foreign governments for the reasonable cost of goods and services supplied by the Board and to apply the funds received to the Board's appropriations.

(7) Whenever the Board submits or transmits any budget estimate, budget request, supplemental budget estimate, or other budget information, legislative recommendation, prepared testimony for congressional hearings, or comment on legislation to the President or to the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Board to submit its budget requests or estimates, legislative recommendations, prepared testimony for congressional hearings, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

(8) The Board is empowered to designate representatives to serve or assist on such committees as the Chairman determines to be necessary or appropriate to maintain effective liaison with other Federal agencies, and with State and local government agencies, and with independent standard-setting bodies carrying out programs and activities related to transportation safety.

(9) The Board, or an employee of the Board duly designated by the Chairman, may conduct an inquiry to secure data with respect to any matter pertinent to transportation safety, upon publication of notice of such inquiry in the Federal Register; and may require, by special or general orders, Federal, State, and local government agencies and persons engaged in the transportation of people or property in commerce to submit written reports and answers to such requests and questions as are propounded with respect to any matter pertinent to any function of the Board. Such reports and answers shall be submitted to the Board or to such employee within such reasonable period of time and in such form as the Board may determine. Copies thereof shall be made available for inspection by the public.

(10) The Board may at any time utilize on a reimbursable basis the services of the Transportation Safety Institute of the Department of Transportation (established for the purpose of developing courses and conducting training in safety and security for all modes of transportation) or any successor organization. The Secretary shall continue to make available such Institute or successor organization (A) to the Board for safety training of employees of the Board in the performance of all of their authorized functions, and (B) to such other safety personnel of Federal, interstate, State, local, and foreign governments and non-governmental organizations as the Board may from time to time designate in consultation with the Secretary. Utilization of such training at the Institute or successor organization by any designated non-Federal safety personnel shall be at a reasonable fee to be established periodically by the Board in consultation with the Secretary. Such fee shall be paid directly to the Secretary for the credit of the proper appropriation, subject to the requirements of any annual appropriation, and shall be an offset against any annual reimbursement agreement entered into between the Board and the Secretary to cover all reasonable direct and indirect costs incurred for all such training by the Secretary in the administration and operation of the Institute or successor organization. The Board shall maintain an annual record for all such offsets. In providing such training to Federal employees, the Board shall be subject to chapter 41 of title 5, United States Code (relating to training of employees).

(11) Establish such rules and regulations as may be necessary to the exercise of its functions.

(c) **USE OF REPORTS AS EVIDENCE.**—No part of any report of the Board, relating to any accident or the investigation thereof, shall be admitted as evidence or used in any suit or action for damages growing out of any matter mentioned in such report or reports.

(d) **JUDICIAL REVIEW.**—Any order, affirmative or negative, issued by the Board under this title shall be subject to review by the appropriate court of appeals of the United States or the United States

Court of Appeals for the District of Columbia, upon petition filed within 60 days after the entry of such order, by any person disclosing a substantial interest in such order. Such review shall be conducted in accordance with the provisions of chapter 7 of title 5, United States Code. [49 U.S.C. App. 1903]

ANNUAL REPORT

SEC. 305. The Board shall report to the Congress on July 1 of each year. Such report shall include, but need not be limited to—

(1) a statistical and analytical summary of the transportation accident investigations conducted and reviewed by the Board during the preceding calendar year;

(2) a survey and summary, in such detail as the Board deems advisable, of the recommendations made by the Board to reduce the likelihood of recurrence of such accidents together with the observed response to each such recommendation;

(3) an appraisal in detail of the accident investigation and accident prevention activities of other government agencies charged by Federal or State law with responsibility in this field; and

(4) a biennial appraisal and evaluation and review, and recommendations for legislative and administrative action and change, with respect to transportation safety. [49 U.S.C. App. 1904]

SEC. 306. (a) GENERAL.—Copies of any communication, document, investigation, or other report, or information received or sent by the Board, or any member or employee of the Board, shall be made available to the public upon identifiable request, and at reasonable cost, unless such information may not be publicly released pursuant to subsection (b) or (c) of this section. Nothing contained in this section shall be deemed to require the release of any information described by subsection (b) of section 552 of title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

(b) EXCEPTION.—The Board shall not disclose information obtained under this title which concerns or relates to a trade secret referred to in section 1905 of title 18, United States Code, except that such information may be disclosed in a manner designed to preserve confidentiality—

(1) upon request, to other Federal Government departments and agencies for official use;

(2) upon request, to any committee of Congress having jurisdiction over the subject matter to which the information relates;

(3) in any judicial proceeding under a court order formulated to preserve the confidentiality of such information without impairing the proceedings; and

(4) to the public in order to protect health and safety, after notice to any interested person to whom the information pertains and an opportunity for such person to comment in writing, or orally in closed session, on such proposed disclosure (if the delay resulting from such notice and opportunity for comment would not be detrimental to health and safety).

(c) **COCKPIT VOICE RECORDER.**—Notwithstanding any other provision of law, the Board shall withhold from public disclosure cockpit voice recorder recordings and transcriptions, in whole or in part, of oral communications by and between flight crew members and ground stations, that are associated with accidents or incidents investigated by the Board: *Provided*, That portions of a transcription of such oral communications which the Board deems relevant and pertinent to the accident or incident shall be made available to the public by the Board at the time of the Board's public hearing, and in no event later than 60 days following the accident or incidents: *And provided further*, That nothing in this section shall restrict the Board at any time from referring to cockpit voice recorder information in making safety recommendations. [49 U.S.C. App. 1905]

RESPONSE TO BOARD RECOMMENDATIONS

SEC. 307. (a) Whenever the Board submits a recommendation regarding transportation safety to the Secretary, he shall respond to each such recommendation formally and in writing not later than 90 days after receipt thereof. The response to the Board by the Secretary shall indicate his intention to—

(1) initiate and conduct procedures for adopting such recommendation in full, pursuant to a proposed timetable, a copy of which shall be included;

(2) initiate and conduct procedures for adopting such recommendation in part, pursuant to a proposed timetable, a copy of which shall be included. Such response shall set forth in detail the reasons for the refusal to proceed as to the remainder of such recommendation; or

(3) refuse to initiate or conduct procedures for adopting such recommendation. Such response shall set forth in detail the reasons for such refusal.

The Board shall make copies of each such recommendation and response thereto available to the public at reasonable cost.

(b) The Secretary shall submit a report to the Congress on January 1 of each year setting forth all the Board's recommendations to the Secretary during the preceding year regarding transportation safety and a copy of the Secretary's response to each such recommendation. [49 U.S.C. App. 1906]

[SEC. 308. Amendments to other laws: Omitted.]

AUTHORIZATION OF APPROPRIATIONS

SEC. 309. (a) There are authorized to be appropriated for the purposes of this Act not to exceed \$12,000,000 for the fiscal year ending June 30, 1975; and \$12,000,000 for the fiscal year ending June 30, 1976, such sums to remain available until expended. There are authorized to be appropriated for the purposes of this Act not to exceed \$16,420,000 for the fiscal year ending September 30, 1979, and \$17,650,000 for the fiscal year ending September 30, 1980, such sums to remain available until expended. There are authorized to be appropriated for the purposes of this Act not to exceed \$18,540,000 for the fiscal year ending September 30, 1981, \$19,925,000 for the fiscal year ending September 30, 1982, and \$22,100,000 for the fiscal year ending September 30, 1983, such

sums to remain available until expended. There are authorized to be appropriated for the purposes of this Act not to exceed \$22,600,000 for the fiscal year ending September 30, 1984, \$24,500,000 for the fiscal year ending September 30, 1985, and \$26,100,000 for the fiscal year ending September 30, 1986, such sums to remain available until expended. There are authorized to be appropriated for the purposes of this Act not to exceed \$25,400,000 for the fiscal year ending September 30, 1988; \$27,000,000 for the fiscal year ending September 30, 1989; and \$28,600,000 for fiscal year ending September 30, 1990. Such sums shall remain available until expended.

(b) An emergency fund of \$1,000,000 is authorized for expenditure by the Board to be available for necessary expenses, not otherwise provided for, of the Board for accident investigations. There is authorized to be appropriated such sums as may be necessary to establish the emergency fund under the preceding sentence and to replenish the fund annually. Such sums are authorized to remain available until expended. [49 U.S.C. App. 1907]

AVIATION SAFETY AND NOISE ABATEMENT ACT OF 1979
AND
INTERNATIONAL AIR TRANSPORTATION COMPETITION ACT
OF 1979

AVIATION SAFETY AND NOISE ABATEMENT ACT OF 1979

Public Law 96-193; 94 Stat. 50; 49 U.S.C. App. 2101 et seq.

AN ACT To provide assistance to airport operators to prepare and carry out noise compatibility programs, to provide assistance to assure continued safety in aviation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Aviation Safety and Noise Abatement Act of 1979".

TITLE I

SEC. 101. For purposes of this title—

(1) the term "airport" means any public-use airport (as defined by section 503(18) of the Airport and Airway Improvement Act of 1982);

(2) the term "airport operator" means, in the case of an airport serving air carriers certificated by the Civil Aeronautics Board, any person holding a valid certificate issued pursuant to section 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1432) to operate an airport, and, in the case of any other airport, the person operating such airport; and

(3) the term "Secretary" means the Secretary of Transportation. [49 U.S.C. App. 2101]

SEC. 102. Not later than the last day of the twelfth month which begins after the date of enactment of this Act, the Secretary, after consultation with the Administrator of the Environmental Protection Agency and such other Federal, State, and interstate agencies as he deems appropriate, shall by regulation—

(1) establish a single system of measuring noise, for which there is a highly reliable relationship between projected noise exposure and surveyed reactions of people to noise, to be uniformly applied in measuring the noise at airports and the areas surrounding such airports;

(2) establish a single system for determining the exposure of individuals to noise which results from the operations of an airport and which includes, but is not limited to, noise intensity, duration, frequency, and time of occurrence; and

(3) identify land uses which are normally compatible with various exposures of individuals to noise. [49 U.S.C. App. 2102]

SEC. 103. (a)(1) After the effective date of the regulations promulgated in accordance with section 102 of this title, any airport operator of an airport may submit to the Secretary a noise exposure map, prepared in consultation with any public agencies and planning agencies in the area surrounding such airport, which sets forth, in accordance with the regulations promulgated pursuant to section 102, the noncompatible uses in each area of the map, as of

the date of submission of such map, a description of the projected aircraft operations at such airport during 1985, and the ways, if any, in which such operations will affect such map.

(2) If, after the submission to the Secretary of a noise exposure map under paragraph (1), any change in the operation of an airport would create any substantial new noncompatible use in any area surrounding such airport, the operator of such airport shall submit a revised noise exposure map showing such new noncompatible use.

(b)(1) The Secretary is authorized to incur obligations to make grants from funds made available under section 505 of the Airport and Airway Improvement Act of 1982 for airport noise compatibility planning to sponsors of airports. The United States share of any airport noise compatibility planning grant under this section shall be that percent for which a project for airport development at that airport would be eligible under section 510 of the Airport and Airway Improvement Act of 1982.

(2) For purposes of this Act, the term "airport noise compatibility planning" means the development for planning purposes of information necessary to prepare and submit (A) the noise exposure map and related information pursuant to subsection (a) of this section, including any cost associated with obtaining such information, or (B) a noise compatibility program for submission pursuant to section 104 of this Act. [49 U.S.C. App. 2103]

SEC. 104. (a) Any airport operator who has submitted a noise exposure map and the related information pursuant to section 103(a)(1) may, after consultation with the officials of any public agencies and planning agencies in the area surrounding such airport, the Federal officials having local responsibility for such airport, and any air carriers using such airport and after notice and an opportunity for a public hearing, submit a noise compatibility program to the Secretary. Such program shall set forth the measures which such operator has taken or proposes for the reduction of existing noncompatible uses and the prevention of the introduction of additional noncompatible uses within the area covered by the noise exposure map submitted by such operator. Such measures may include, but are not limited to—

(1) the implementation of any preferential runway system;

(2) the implementation of any restriction on the use of such airport by any type or class of aircraft based on the noise characteristics of such aircraft;

(3) the construction of barriers and acoustical shielding, including the soundproofing of public buildings;

(4) the use of flight procedures to control the operation of aircraft to reduce exposure of individuals to noise in the area surrounding the airport; and

(5) acquisition of land and interests therein, including, but not limited to, air rights, easements, and development rights, so as to assure the use of property for purposes which are compatible with airport operations.

(b) The Secretary shall approve or disapprove any program submitted to him pursuant to subsection (a) (other than as such program relates to flight procedures referred to in subsection (a)(4) of

this section) within one hundred and eighty days after it is received by him. The Secretary shall approve such program (other than as such program relates to flight procedures referred to in subsection (a)(4) of this section) (A) if the measures to be undertaken in carrying out such program (i) do not create an undue burden on interstate or foreign commerce, and (ii) are reasonably consistent with obtaining the goal of reducing existing noncompatible uses and preventing the introduction of additional noncompatible uses, and (B) if the program provides for its revision made necessary by any revised noise exposure map submitted under section 103(a)(2) of this title. Failure of the Secretary to approve or disapprove such program (other than as such program relates to flight procedures referred to in subsection (a)(4) of this section) within such time period shall be deemed to be an approval of such program. With respect to any part of such program which relates to such flight procedures, the Secretary shall provide such part of such program to the Administrator of the Federal Aviation Administration who shall either approve or disapprove such part of such program.

(c) ¹(1) The Secretary is authorized to incur obligations to make grants under this Act from funds made available under section 505 of the Airport and Airway Improvement Act of 1982 for any project to carry out a noise compatibility program or parts thereof not disapproved under subsection (b) of this section. Grants under this Act may be made to operators of airports submitting noise compatibility programs and to units of local government in the area sur-

¹ Section 301(d) of the Airport and Airway Safety and Capacity Expansion Act of 1987 (Pub. L. 100-223, 100 Stat. 1523-1524; 49 U.S.C. App. 2104 note) reads as follows:
SEC. 301. NOISE ABATEMENT.

(d) PROCEDURES FOR PREPARATION AND SUBMISSION OF NOISE COMPATIBILITY PROGRAMS.—

(1) STUDY.—The Secretary shall conduct a study of the procedures established under the Aviation Safety and Noise Abatement Act of 1979 for the preparation and submission of noise compatibility programs. The objectives of such study shall be to determine whether or not such procedures could be revised to provide a more simplified process which meet the objectives of such Act and to determine whether or not expedited and simplified procedures which meet the objectives of such Act could be developed to take into account special circumstances at certain airports.

(2) CONSULTATION REQUIREMENT.—In undertaking the study under this subsection, the Secretary shall consult airports, airport users (including air carriers), representatives of persons residing in areas surrounding airports, concerned Federal, State, and local officials, and other interested persons.

(3) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1) together with recommendations.

(4) FUNDING DURING STUDY.—

(A) CONGRESSIONAL INTENT.—It is the intention of Congress that the authority of the Secretary to make grants under section 104(c)(2) of the Aviation Safety and Noise Abatement Act of 1979 to airport operators and units of local government to implement noise compatibility programs that were developed prior to the promulgation of implementing regulations under such Act if the Secretary determines that such programs would further the purposes of such Act shall continue until such programs are fully implemented but not later than the last day of the 18-month period beginning on the date of the enactment of this Act, notwithstanding any other provision of law and any rule or regulation promulgated pursuant to any other provision of law.

(B) CONTINUATION.—In order to carry out the intent specified in subparagraph (A), grants may continue to be made under section 104(c)(2) of the Aviation Safety and Noise Abatement Act of 1979 for noise compatibility programs or projects previously approved under such program during the 18-month period beginning on the date of the enactment of this Act, if—

(i) the operator of the airport involved submits updated noise exposure contours, as required by the Secretary; and

(ii) the Secretary determines that such programs or projects are compatible with the purposes of such Act.

rounding such airports if the Secretary determines such units have the capability to carry out projects for which grant applications are made in accordance with such noise compatibility programs. Such airport operator may in turn agree to make the grant available to public agencies in the area surrounding such airports if the Secretary determines such agencies have the capability to carry out projects for which grant applications are made in accordance with such noise compatibility programs. The Federal share of any project for which a grant is made under this subsection shall be 80 percent of the cost of the project or the Federal share which would be applicable to such project if the funds made available for such project were being made available under the Airport and Airway Improvement Act of 1982 for a project at the airport, whichever percentage is greater. All of the provisions of the Airport and Airway Improvement Act of 1982 applicable to project grants made under section 505 of that Act (except section 510 of that Act relating to United States share of project costs) shall be applicable to any grant made under this Act, unless the Secretary determines that any provision of such Act of 1982 is inconsistent with, or unnecessary to carry out, the purposes of this Act.

(2) The Secretary, further, is authorized under this section to make grants to operators of airports and to units of local government referred to in paragraph (1) for any project to carry out a noise compatibility program developed prior to the enactment of this Act or the promulgation of its implementing regulations if the Secretary determines that such prior program is substantially consistent with the purposes of reducing existing uses and preventing the introduction of additional noncompatible uses and that the purposes of this Act would be furthered by prompt implementation of such program.

(3) The Secretary is authorized under this section to make grants to operators of airports and to units of local government referred to in paragraph (1) for any project to soundproof any public building (A) which is used primarily for educational or medical purposes in the noise impact area surrounding such airport, and (B) which is determined to be adversely affected by airport noise.

(d) The United States shall not be liable for damages resulting from aviation noise by reason of any action taken by the Secretary or the Administrator of the Federal Aviation Administration under this section.

(e) The Secretary shall obligate from funds available for expenditure under section 14(a)(3) of the Airport and Airway Development Act of 1970, not less than \$25,000,000, for the fiscal year ending September 30, 1980, for making grants under subsection (c) of this section. [49 U.S.C. App. 2104]

SEC. 105. The Secretary, acting through the Administrator of the Federal Aviation Administration, after consultation with the officials of any public agencies or planning agencies in the area surrounding such airport, shall prepare and publish a noise exposure map and a noise compatibility program for the airport established by the Act of June 29, 1940 (54 Stat. 686), and the airport the construction of which was authorized by the Act of September 7, 1950 (64 Stat. 770). Such map and program shall be prepared and pub-

lished in accordance with the requirements of this Act no later than 1 year after the effective date of the regulations promulgated in accordance with section 102 of this Act. [49 U.S.C. App. 2105]

SEC. 106. No part of any noise exposure map or related information described in section 103(a) submitted to, or prepared by, the Secretary and no part of the list of land uses identified by the Secretary as land uses which are normally compatible with various exposures of individuals to noise shall be admitted as evidence, or used for any other purpose, in any suit or action seeking damages or other relief for the noise that results from the operation of an airport. [49 U.S.C. App. 2106]

SEC. 107. (a) No person who acquires property or an interest therein after the date of enactment of this Act in an area surrounding an airport with respect to which a noise exposure map has been submitted under section 103 of this title shall be entitled to recover damages with respect to the noise attributable to such airport if such person had actual or constructive knowledge of the existence of such noise exposure map unless, in addition to any other elements for recovery of damages, such person can show that—

(1) a significant change in the type or frequency of aircraft operations at the airport; or

(2) a significant change in the airport layout; or

(3) a significant change in the flight patterns; or

(4) a significant increase in nighttime operations;

occurred after the date of the acquisition of such property or interest therein and that the damages for which recovery is sought have resulted from any such change or increase.

(b) For purposes of this section, constructive knowledge shall be imputed, at a minimum, to any person who acquires property or an interest therein in an area surrounding an airport after the date of enactment of this Act if—

(1) prior to the date of such acquisition, notice of the existence of a noise exposure map for such area was published at least three times in a newspaper of general circulation in the county in which such property is located; or

(2) a copy of such noise exposure map is furnished to such person at the time of such acquisition. [49 U.S.C. App. 2107]

SEC. 108. The Secretary shall study airport noise compatibility planning and airport noise compatibility programs carried out with grants made under this title, to determine to what extent such planning and programs are achieving the goals of reducing existing noncompatible uses of land around airports and preventing the introduction of new noncompatible uses around airports. Not later than January 1, 1981, the Secretary shall submit a report to Congress setting forth the determinations made pursuant to such studies together with legislative recommendations, if any, which the Secretary determines necessary. [49 U.S.C. App. 2108]

[Title II consists of conforming amendments. Omitted.]

TITLE III

DEFINITIONS

SEC. 301. For purposes of this title—

(1) the term "noncomplying aircraft" means any civil subsonic turbojet powered aircraft (A) which (i) has a maximum certificated takeoff weight of 75,000 pounds or more, and (ii) in the case of an aircraft registered in the United States, has a standard airworthiness certificate issued pursuant to section 603(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1423), and (B) which does not comply with the noise standards prescribed for new subsonic aircraft in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration (14 CFR part 36), as such regulations were in effect on January 1, 1977; and

(2) the term "Secretary" means the Secretary of Transportation. [49 U.S.C. App. 2121]

COMPLIANCE FOR INTERNATIONAL CARRIERS

SEC. 302. (a) If, by January 1, 1980, the International Civil Aviation Organization (hereafter referred to as "ICAO") does not reach an agreement (1) which adopts the noise standards prescribed for new subsonic aircraft in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration (14 CFR part 36), as such regulations were in effect on January 1, 1977, or (2) on noise standards and an international schedule for compliance with ICAO Noise Standards (annex 16) which are substantially compatible with the standards set forth in such regulations issued by the Secretary (14 CFR parts 36 and 91), the Secretary, acting through the Administrator, shall commence a rulemaking to require all air carriers and foreign air carriers engaging in foreign air transportation to comply with the noise standards set forth in such regulations (14 CFR parts 36 and 91) or with ICAO Noise Standards (annex 16) which are substantially compatible with the standards set forth in such regulations issued by the Secretary (14 CFR parts 36 and 91) during the 5-year period thereafter, at a phased rate of compliance similar to that in effect for aircraft registered in the United States. The requirement applied to air carriers engaging in foreign air transportation shall not be more stringent than those applied to foreign air carriers. Such rulemaking shall be concluded within 120 days.

(b) If, prior to January 1, 1980, the International Civil Aviation Organization reaches an agreement on noise standards that complies with clause (a)(1) or (a)(2) of this section, the Secretary, acting through the Administrator of the Federal Aviation Administration, shall immediately commence a rulemaking to require all air carriers and foreign air carriers engaging in foreign air transportation to comply with the noise standards set forth in such agreement at a phased rate of compliance similar to that in effect for aircraft registered in the United States. The requirement applied to air carriers engaging in foreign air transportation shall not be more stringent than those applied to foreign air carriers. Such rulemaking shall be concluded within 120 days. [49 U.S.C. App. 2122]

NEW TECHNOLOGY AIRCRAFT INCENTIVE

SEC. 303.¹ (a) The Secretary shall provide an exemption from applicable noise standards to permit the operation of any noncomplying three-engine aircraft, but not beyond January 1, 1985, if (1) the operator of such aircraft has a plan for the replacement of such aircraft which has been approved by the Secretary, and (2) the operator of such aircraft has entered into a binding contract by January 1, 1983, for delivery prior to January 1, 1985, of a replacement aircraft which meets, at a minimum, the noise standards for new type certificated aircraft set forth in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration, on March 2, 1978 (F.R. Vol. 43, p. 8722, et seq.).

(b) The Secretary shall provide an exemption from applicable noise standards to permit the operation of any noncomplying two-engine aircraft, but not beyond January 1, 1986, if (1) the operator of such aircraft has a plan for the replacement of such aircraft which has been approved by the Secretary, and (2) the operator of such aircraft has entered into a binding contract by January 1, 1983, for delivery prior to January 1, 1986, of a replacement aircraft which meets, at a minimum, the noise standards for new type certificated aircraft set forth in regulations issued by the Secretary,

¹ Section 124 of Public Law 98-473 (98 Stat. 1970) provided:

Sec. 124. Notwithstanding any other provision of this joint resolution, the Secretary of the Department of Transportation shall grant an exemption from the January 1, 1985 deadline for compliance with the provisions of Public Law 96-193, if an applicant for such exemption submits to the Secretary prior to January 1, 1985 an application for exemption which complies with the provisions of subsections (b) or (c) of this section.

(b) the Secretary shall specify the form and manner in which any application shall be made. Any such application from a person operating aircraft for which equipment to assure compliance with the provisions of Public Law 96-193 ("hush kits") is currently under development shall include a copy of a contract entered into by the applicant and a known supplier of equipment which would bring the applicant into compliance with the provisions of Public Law 96-193.

(c) applicants currently operating aircraft obtained prior to January 1, 1980 for which no such compliance equipment is currently under development shall accompany their application with a sworn commitment to enter into a contract not later than June 1, 1985 for aircraft which will comply with the provisions of Public Law 96-193.

(d) Nothing in this section shall be construed to limit the power of the Secretary to deny any application or revoke any exemption granted under this section if, after examining any contract submitted under subsection (b) or (c) of this section, the Secretary determines that the applicant or holder of such exemption will not be able to comply with the requirements of Public Law 96-193 within the timeframe set forth in such exemption. No exemptions shall be issued to any applicant pursuant to this section unless the Secretary determines that the contract required under subsection (b) or (c) of this section is with a bona fide supplier of equipment to assure compliance in the case of subsection (b) of this section, or complying aircraft in the case of subsection (c) of this section; that such equipment or aircraft can reasonably be expected to achieve compliance; that such contract provides for non-refundable deposits sufficient to assure good faith compliance by such applicant; and that the contract provides for compliance at the earliest possible date.

(e) Any exemption granted under this section shall expire not later than December 31, 1985 except that, if the Secretary determines that equipment to ensure compliance with the provisions of Public Law 96-193 which has been certified by the Department for that purpose will not be available to the holder of the exemption by that date, the Secretary may extend such exemption for such period as the Secretary determines is necessary to insure compliance with such provisions.

(f) No person receiving an exemption under the provisions of this section may increase either the frequency of operations into the place for which the exemption was granted, or increase the number of non-compliant aircraft operated at the place for which the exemption was granted beyond that existing in the twelve months prior to the date of enactment of this section.

(g) No exemption granted pursuant to this section shall (i) permit flights at any airport in the United States, as the term United States is defined in 49 U.S.C. 1301, other than Miami International Airport, in Miami, Florida, and Bangor International Airport, in Bangor, Maine, or (ii) permit the operation of flights which serve both Miami International Airport and Bangor International Airport.

acting through the Administrator of the Federal Aviation Administration, on March 2, 1978 (F.R. Vol. 43, p. 8722, et seq.). [49 U.S.C. App. 2123]

SMALL COMMUNITY SERVICE EXEMPTION

SEC. 304. (a) The Secretary shall provide an exemption from applicable noise standards to any person operating a noncomplying two-engine aircraft to permit such person to operate such aircraft.

(b) Any exemption issued pursuant to this section shall terminate on whichever of the following dates first occurs:

(1) in the event such operator sells or otherwise disposes of such aircraft to another person on or after January 1, 1983, on the date such aircraft is delivered to such other person;

(2) in the case of an aircraft with a seating configuration of 100 passenger seats or less, on January 1, 1988; or

(3) in the case of an aircraft with a seating configuration of more than 100 passenger seats, on January 1, 1985.

(c) For the purposes of subsection (b) of this section, the seating configuration of an aircraft shall be the seating configuration that existed on such aircraft on December 1, 1979, or such earlier date as the Secretary may establish in individual cases. [49 U.S.C. App. 2124]

TRADEOFF ALLOWANCE

SEC. 305. Notwithstanding any other provision of law or any rule, regulation, or order issued pursuant thereto, the tradeoff provisions contained in appendix C of part 36 of title 14 of the Code of Federal Regulations shall apply in determining whether any aircraft complies with the provisions of subpart E of part 91 of title 14 of the Code of Federal Regulations. [49 U.S.C. App. 2125]

TITLE IV

SEC. 401. Not later than 90 days after the date of enactment of this Act, and each January 31 thereafter, until implementation of collision avoidance systems in the national air traffic control system, the Secretary of Transportation shall submit to the Congress a report on the status of the development of such systems. Such reports shall set forth proposed timetables for the implementation of such systems. The Secretary of Transportation's report shall include proposals for any legislation needed to implement such systems.

[Sections 402 and 403. Amendments to other laws: Omitted.]

TITLE V

SEC. 501. (a) The Administrator of the Federal Aviation Administration (hereinafter referred to as the "Administrator") shall, within 90 days after the date of enactment of this Act, promulgate regulations for airports operated by the Administration to regulate the access to public areas by individuals or by religious and non-profit organizations (as defined in section 501(c)(3) of the Internal Revenue Code of 1954) for the purpose of soliciting funds or distributing materials.

(b) In promulgating regulations under this section the Administrator shall consider requiring any individual or organization described in subsection (a) to submit an application for a permit to engage in the soliciting of funds or the distribution of materials. In considering such an application the Administrator may require that—

(1) a responsible individual representative of the applicant shall be designated to represent the organization,

(2) each individual participating in any solicitation or distribution will display a proper identification approved by the Administrator,

(3) the number of individuals engaged in any solicitation or distribution at any one time shall not exceed a reasonable number, in keeping with the need for free movement in and operation of the airports as provided for by the permit,

(4) the solicitation or distribution be confined to limited areas and times, and

(5) no individual or organization which holds a permit under this section shall be permitted to—

(A) use sound amplification or display signs (other than signs approved by the Administrator);

(B) intentionally interfere with users of the airport;

(C) engage in the use of indecent or obscene remarks or conduct; or

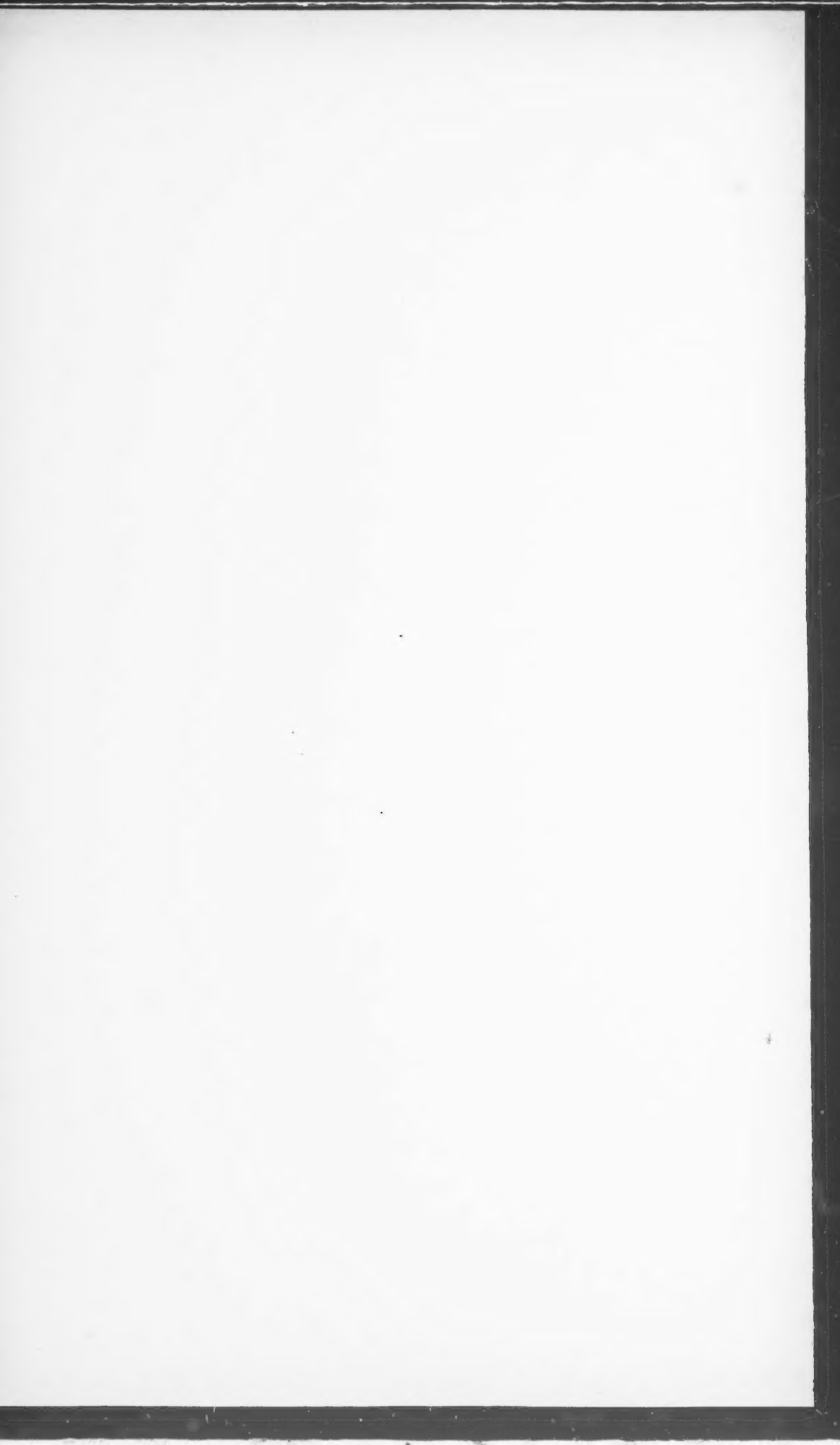
(D) engage in the use of loud, threatening, or abusive language intended to coerce, intimidate or disturb the peace.

(c)(1) The Administrator shall consider requiring that a copy of a permit (if such is required) be conspicuously posted in the area in which any solicitation or distribution is permitted.

(2) The Administrator shall consider whether revocation of approval for any permit if required and approved under this section should occur for any violation of any rule or regulation promulgated hereunder.

(d) Regulations intended to be promulgated under this section shall be submitted to Congress within 30 days after the date of enactment of this Act.

[Section 502. Amendments to other laws: Omitted.]



INTERNATIONAL AIR TRANSPORTATION COMPETITION ACT OF 1979

Public Law 96-192; 94 Stat. 35

AN ACT To amend the Federal Aviation Act of 1958 in order to promote competition in international air transportation, provide greater opportunities for United States air carriers, establish goals for developing United States international aviation negotiating policy, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Air Transportation Competition Act of 1979".

* * * * *

SEC. 29. (a) Except as provided in subsection (c), notwithstanding any other provision of law, neither the Secretary of Transportation, the Civil Aeronautics Board, nor any other officer or employee of the United States shall issue, reissue, amend, revise, or otherwise modify (either by action or inaction) any certificate or other authority to permit or otherwise authorize any person to provide the transportation of individuals, by air, as a common carrier for compensation or hire between Love Field, Texas, and one or more points outside the State of Texas, except (1) charter air transportation not to exceed ten flights per month, and (2) air transportation provided by commuter airlines operating aircraft with a passenger capacity of 56 passengers or less.

(b) Except as provided in subsections (a) and (c), notwithstanding any other provision of law, or any certificate or other authority heretofore or hereafter issued thereunder, no person shall provide or offer to provide the transportation of individuals, by air, for compensation or hire as a common carrier between Love Field, Texas, and one or more points outside the State of Texas, except that a person providing service to a point outside of Texas from Love Field on November 1, 1979, may continue to provide service to such a point.

(c) Subsections (a) and (b) shall not apply with respect to, and it is found consistent with the public convenience and necessity to authorize, transportation of individuals, by air, on a flight between Love Field, Texas, and one or more points within the States of Louisiana, Arkansas, Oklahoma, New Mexico, and Texas by an air carrier, if (1) such air carrier does not offer or provide any through service or ticketing with another air carrier or foreign air carrier, and (2) such air carrier does not offer for sale transportation to or from, and the flight or aircraft does not serve, any point which is outside any such State. Nothing in this subsection shall be construed to give authority not otherwise provided by law to the Secre-

tary of Transportation, the Civil Aeronautics Board, any other officer or employee of the United States, or any other person.

(d) This section shall not take effect if enacted after the enactment of the Aviation Safety and Noise Abatement Act of 1979.

ACTS RELATING TO WASHINGTON AREA AIRPORTS

ACT OF JUNE 29, 1940

54 Stat. 686; 49 U.S.C. App. 2401 et seq.

AN ACT To provide for the administration of the Washington National Airport, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of this Act—

SEC. 1. (a) "Administrator" means the Administrator of the Federal Aviation Agency.

(b) "Airport" means the Washington National Airport, which shall consist of, and include, the tract of land, together with all structures, improvements, and other facilities located thereon, lying partly in the District of Columbia and partly in the State of Virginia, particularly described as follows:

Commencing at a point of beginning, said point being the intersection of the property line of property owned by the Richmond, Fredericksburg and Potomac Railroad Company, and dredging base line at station 0+18.99 referenced south 6,808.21, west 9,078.02, running in a southeasterly direction on a bearing of south 22°51'18" east a distance of 6,270.91 feet, more or less, to station 62+89.90 of said dredging base line. Thence 13°30' right on a bearing of south 9°21'18" east a distance of 1,332.29 feet, more or less, to station 76+22.19 of said base line. Thence 11°04'19" right on a bearing of south 1°43'01" west a distance of 1,231.20 feet, more or less, to station 88+53.39 of said base line. Thence 12°40'41" right on a bearing of south 14°23'42" west a distance of 2,409.32 feet, more or less, to station 112+62.71 on said base line. Thence 1°15'44.3" right on a bearing of south 15°39'26.3" west a distance of 4,938.38 feet, more or less, to United States Coast and Geodetic Survey Station WATER, referenced south 22,220.86, west 8,395.54. Thence 17°09'25.6" left on a bearing of south 1°29'59.3" east a distance of 85.58 feet, more or less, to a corner of the property line between the United States of America and Smoot Sand and Gravel Corporation. Thence 85°59'59.3" right on a bearing of south 84°30'00" west a distance of 1,516.41 feet, more or less, to a monument located at a corner on the property line of the Richmond, Fredericksburg and Potomac Railroad Company, said monument being referenced south 22,451.75, west 9,902.73. Thence 85°50'06.7" right on a bearing of north 8°09'54" west a distance of 442.68 feet, more or less. Thence 5°00'12" left on a bearing of north 13°10'06" west a distance of 578.64 feet, more or less. Thence 4°57'25" left on a bearing of north 18°07'31" west a distance of 462.94 feet, more or less. Thence 1°34'50" left on a bearing of north 19°42'21" west a distance of 943.56 feet, more or less, to the point of a curve having an angle of 27°52'45" right radius 1,241.15 feet, long chord 597.98 feet, on a bearing of north 5°45'58" west. Thence along the arc of said

curve a distance of 603.92 feet, more or less, to the point of tangency of said curve. Thence along a tangent to said curve on a bearing of north $8^{\circ}10'24''$ east a distance of 232.33 feet, more or less, to the point of a curve having an angle of $36^{\circ}59'09''$ left, radius 1,046 feet, long chord 663.56 feet on a bearing of north $10^{\circ}19'10.5''$ west. Thence along the arc of said curve a distance of 675.22 feet, more or less, to the point of tangency of said curve. Thence along a tangent to said curve on a bearing of north $28^{\circ}48'45''$ west a distance of 256.75 feet, more or less. Thence $30^{\circ}33'10''$ left on a bearing of north $59^{\circ}21'55''$ west a distance of 287.84 feet, more or less. Thence $40^{\circ}45'20''$ right on a bearing of north $18^{\circ}36'35''$ west a distance of 1,142.08 feet, more or less. Thence $5^{\circ}43'29''$ right on a bearing of north $12^{\circ}53'06''$ west a distance of 118.02 feet, more or less, to the point of a curve having an angle of $26^{\circ}20'50''$ right, radius 3,665.71 feet, long chord 1,670.85 feet on a bearing of north $0^{\circ}17'19''$ east. Thence along the arc of said curve a distance of 1,685.66 feet, more or less, to the point of tangency of said curve. Thence along a tangent to said curve on a bearing of north $13^{\circ}27'44''$ east a distance of 2,002.11 feet, more or less, to the point of a curve having an angle of $10^{\circ}36'25''$ left, radius 2,864.79 feet, long chord of 529.59 feet on a bearing of north $8^{\circ}09'31.5''$ east. Thence along the arc of said curve a distance of 530.25 feet, more or less, to the point of tangency of said curve. Thence along a tangent to said curve on a bearing of north $2^{\circ}51'19''$ east a distance of 124.53 feet, more or less. Thence $6^{\circ}57'52''$ left on a bearing of north $4^{\circ}06'33''$ west a distance of 571.33 feet, more or less. Thence $7^{\circ}22'39''$ left on a bearing of north $11^{\circ}29'12''$ west a distance of 811.63 feet, more or less. Thence $8^{\circ}16'52''$ right on a bearing of north $3^{\circ}12'20''$ east a distance of 70.41 feet, more or less, to the point of a curve having an angle of $7^{\circ}43'12''$ right, radius 5,479.58 feet, long chord 737.75 feet on a bearing of north $7^{\circ}03'56''$ east. Thence along the arc of said curve a distance of 738.31 feet, more or less, to the point of tangency of said curve, said point being on the old property line between Mary E. Cullinane and Milton Hopfenmaier property. Thence along said property line on a bearing of north $75^{\circ}11'50''$ east a distance of 204.72 feet, more or less, to a monument marked U. S. D. 1-N. P. S., reference south 18,419.16, west 10,829.26. Thence along the same bearing of north $75^{\circ}11'50''$ east a distance of 215 feet, more or less. Thence $34^{\circ}36'06''$ left on a bearing of north $40^{\circ}35'44''$ east a distance of 1,509 feet, more or less, to the point of a curve having an angle of $5^{\circ}45'$ left, radius 7,239.41 feet, long chord of 723.20 feet, on a bearing of north $37^{\circ}53'14''$ east. Thence along the arc of said curve a distance of 726.51 feet, more or less, to the point of a compound curve having an angle of $6^{\circ}00'$ left, radius 2,217.01 feet, long chord of 232.06 feet on a bearing of north $32^{\circ}10'44''$ east. Thence along the arc of said curve a distance of 232.15 feet, more or less, to the point of a compound curve having an angle of $57^{\circ}01'20''$ left, radius 1,303.74, long chord 1,244.62, on a bearing of north $0^{\circ}40'04''$ east. Thence along the arc of said curve a distance of 1,297.22 feet, more or less, to the point of a compound curve having an angle of $7^{\circ}59'54.3''$ left, radius 2,217.01 feet, long chord 309.23 feet on a bearing of north $31^{\circ}49'33''$ west. Thence along the arc of said curve a distance of 310 feet, more or less, to the intersection of said curve

with the property line of the Richmond, Fredericksburg and Potomac Railroad Company and the United States of America. Thence in a northeasterly direction along a bearing of north 34°30'00" east a distance of 340 feet, more or less, to the point of beginning; excepting, however, such portion thereof as the President may, by Executive order or orders, prescribe, which portion shall be added to, and administered as part of, the Mount Vernon Memorial Highway, authorized by the Act approved May 23, 1928 (45 Stat. 721), as amended. [49 U.S.C. App. 2401]

SEC. 2. The Administrator shall have control over, and responsibility for, the care, operation, maintenance, and protection of the airport, together with the power to make and amend such rules and regulations as he may deem necessary to the proper exercise thereof. [49 U.S.C. App. 2402]

SEC. 3. The Administrator is empowered to lease, upon such terms as he may deem proper, space or property within or upon the airport for purposes essential or appropriate to the operation of the airport. [49 U.S.C. App. 2403]

SEC. 4. (a) The Administrator, and any Federal Aviation Agency employee appointed to protect life and property on the airport, when designated by the Administrator, is hereby authorized and empowered (1) to arrest under a warrant within the limits of the airport any person accused of having committed within the boundaries of the airport any offense against the laws of the United States, or against any rule or regulation prescribed pursuant to this Act; (2) to arrest without warrant any person committing any such offense within the limits of the airport, in his presence; or (3) to arrest without warrant within the limits of the airport any person whom he has reasonable grounds to believe has committed a felony within the limits of the airport.

(b) Any individual having the power of arrest as provided in subsection (a) of this section may carry firearms or other weapons as the Administrator may direct or by regulation may prescribe.

(c) The United States Park Police may, at the request of the Administrator, be assigned by the Director of the National Park Service, in his discretion, subject to the supervision and direction of the Secretary of the Interior, to patrol any area of the airport, and any members of the United States Park Police so assigned are hereby authorized and empowered to make arrests within the limits of the airport for the same offenses, and in the same manner and circumstances, as is provided in this section with respect to employees designated by the Administrator. [49 U.S.C. App. 2404]

SEC. 5. Any person who knowingly and willfully violates any rule or regulation prescribed under this Act shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$500 or imprisoned not more than six months, or both. [49 U.S.C. App. 2405]

SEC. 6. The officer on duty in command of those employees designated by the Administrator as provided in section 4 may accept deposit of collateral from any person charged with the violation of any rule or regulation prescribed under this Act, for appearance in court or before the appropriate United States commissioner; and

such collateral shall be deposited with the United States commissioner at Alexandria, Virginia. [49 U.S.C. App. 2406]

SEC. 7. The Administrator may enter into agreements with the State of Virginia, or with any political subdivision thereof, for such municipal services as the Administrator shall deem necessary to the proper and efficient government of the airport, and he may, from time to time, agree to modifications in any such agreement: *Provided, however,* That where the charge for any such service is established by the laws of the State of Virginia, the Administrator may not pay for such service an amount in excess of the charge so established. There is hereby authorized to be appropriated such sums as may be necessary for the making of payment for services under any such agreement. [49 U.S.C. App. 2407]

ACT OF OCTOBER 31, 1945

AN ACT To establish a boundary line between the District of Columbia and the Commonwealth of Virginia, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—BOUNDARY LINE BETWEEN THE DISTRICT OF COLUMBIA AND THE COMMONWEALTH OF VIRGINIA

* * * * *

SEC. 107. The State of Virginia hereby consents that exclusive jurisdiction in the Washington National Airport (as described in sec. 1(b) of the Act of June 29, 1940 (54 Stat. 686)), title to which is now in the United States, shall be in the United States. The conditions upon which this consent is given are the following and none others: (1) There is hereby reserved in the Commonwealth of Virginia the jurisdiction and power to levy a tax on the sale of oil, gasoline, and all other motor fuels and lubricants sold on the Washington National Airport for use in over-the-road vehicles such as trucks, busses, and automobiles, except sales to the United States: *Provided*, That the Commonwealth of Virginia shall have no jurisdiction or power to levy a tax on the sale or use of oil, gasoline, or other motor fuels and lubricants for other purposes; (2) there is hereby expressly reserved in the Commonwealth of Virginia the jurisdiction and power to serve criminal and civil process on the Washington National Airport; and (3) there is hereby reserved in the Commonwealth of Virginia the jurisdiction and power to regulate the manufacture, sale, and use of alcoholic beverages on the Washington National Airport (as described in sec. 1(b) of the Act of June 29, 1940 (54 Stat. 686)).

Subject to the limitation on the consent of the State of Virginia as expressed herein exclusive jurisdiction in the Washington National Airport shall be in the United States and the same is hereby accepted by the United States.

This Act shall have no retroactive effect except that taxes and contributions in connection with operations, sales and property on and income derived at the Washington National Airport heretofore paid either to the Commonwealth of Virginia or the District of Columbia are hereby declared to have been paid to the proper jurisdictions and Commonwealth of Virginia and the District of Columbia each hereby waives any claim for any such taxes or contributions heretofore assessed or assessable to the extent of any such payment to either jurisdiction.

Any provision of law of the United States or the Commonwealth of Virginia which is to any extent in conflict with this Act is to the extent of such conflict hereby expressly repealed.

SEC. 108. This title shall not become effective unless and until the State of Virginia shall accept the provisions thereof.

* * * * *

ACT OF SEPTEMBER 7, 1950¹

64 Stat. 770; 49 U.S.C. App. 2421 et seq.

AN ACT To authorize the construction, protection, operation, and maintenance of a public airport in or in the vicinity of the District of Columbia.

Be it¹ enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of the Federal Aviation Agency (hereinafter referred to as the "Administrator") is hereby authorized and directed to construct, protect, operate, improve, and maintain within or in the vicinity of the District of Columbia, a public airport (including all buildings and other structures necessary or desirable therefor). [49 U.S.C. App. 2421]

SEC. 2. For the purpose of carrying out this Act, the Administrator is authorized to acquire, by purchase, lease, condemnation, or otherwise (including transfer with or without compensation from Federal agencies or the District of Columbia, or any State or political subdivision thereof), such lands and interests in lands and appurtenances thereto, including avigation easements or air-space rights, as may be necessary or desirable for the construction, maintenance, improvement, operation, and protection of the airport: *Provided further*, That before making commitments for the acquisition of land, or the transfer of any lands, the Administrator shall consult and advise with the National Capital Park and Planning Commission as to the conformity of the proposed location with the Commission's comprehensive plan for the National Capital and its environs, and said Commission shall, upon request, submit a report and recommendations thereon within thirty days: *Provided further*, That the choice of site by the Administrator shall be made only after consultation with the governing body in the county in which the airport is to be located, with respect to the suitability of the site to be selected, and its possible impact on the vicinity. [49 U.S.C. App. 2422]

SEC. 3. For the purposes of this Act, the Administrator is empowered to acquire, by purchase, lease, condemnation, or otherwise (including transfer with or without compensation from Federal agencies or the District of Columbia, or any State or political subdivision thereof), rights-of-way or easements for roads, trails, pipe lines, power lines, railroad spurs, and other similar facilities necessary or desirable for the construction or proper operation of the airport.

The Administrator is authorized to construct any streets, highways, or roadways (including bridges) as may be necessary to provide access to the airport from existing streets, highways, or road-

¹ The airport constructed under this Act, known as Dulles International Airport, was renamed Washington Dulles International Airport by Public Law 98-510.

ways. Upon completion of construction of any street, highway, or roadway within the District of Columbia, such street, highway, or roadway shall be transferred to the District of Columbia without charge, and thereafter shall be maintained by the District of Columbia. Upon construction of any street, highway, or roadway within a State or political subdivision thereof, such street, highway, or roadway may be transferred to such State or political subdivision thereof, without charge, on the condition that such street, highway, or roadway thereafter be maintained as a public street, highway, or roadway by such State or political subdivision thereof. [49 U.S.C. App. 2423]

SEC. 4. The Administrator shall have control over and responsibility for the care, operation, maintenance, improvement, and protection of the airport, together with the power to make and amend such rules and regulations as he may deem necessary to the proper exercise thereof: *Provided*, That the authority herein contained may be delegated by the Administrator to such official or officials of the Federal Aviation Agency as the Administrator may designate. [49 U.S.C. App. 2424]

SEC. 5. The Administrator is empowered to lease under such conditions as he may deem proper and for such periods as may be desirable space or property within or upon the airport for purposes essential or appropriate to the operation of the airport: *Provided*, That no lease for the use of any hanger or space therein shall extend for a period exceeding three years. [49 U.S.C. App. 2425]

SEC. 6. The Administrator is authorized to contract with any person for the furnishing of supplies or performance of services at or upon the airport necessary or desirable for the proper operation of the airport, including but not limited to, contracts for furnishing food and lodging, sale of aviation fuels, furnishing of aircraft repairs and other aeronautical services, and such other services and supplies as may be necessary or desirable for the traveling public. No such contract, not including contracts involving the construction of permanent buildings or facilities, shall extend for a period of longer than five years, except the restaurant. The provisions of section 3709 of the Revised Statutes shall not apply to contracts authorized under this section, to leases authorized under section 5 hereof, or to contracts for architectural or engineering services necessary for the design and planning of the airport. [49 U.S.C. App. 2426]

SEC. 7. Any executive department, independent establishment, or agency of the Federal Government or the District of Columbia, for the purposes of carrying out this Act, is authorized to transfer to the Administrator, without compensation, upon his request, any lands, interests in lands (including aviation easements or air-space rights), buildings, property, or equipment under its control and in excess of its own requirements, which the Administrator may consider necessary or desirable for the construction, care, operation, maintenance, improvement, or protection of the airport. [49 U.S.C. App. 2427]

SEC. 8. (a) The Administrator, and any Federal Aviation Agency employee appointed to protect life and property on the airport, when designated by the Administrator, is hereby authorized and

empowered (1) to arrest under a warrant within the limits of the airport any person accused of having committed within the boundaries of the airport any offense against the laws of the United States, or against any rule or regulation prescribed pursuant to this Act; (2) to arrest without warrant any person committing any such offense within the limits of the airport, in his presence; or (3) to arrest without warrant within the limits of the airport any person whom he has reasonable grounds to believe has committed a felony within the limits of the airport.

(b) Any individual having the power of arrest as provided in subsection (a) of this section may carry firearms or other weapons as the Administrator may direct or by regulation may prescribe.

(c) The United States Park Police may, at the request of the Administrator, be assigned by the Secretary of the Interior, in his discretion, to patrol any area of the airport, and any members of the United States Park Police so assigned are hereby authorized and empowered to make arrests within the limits of the airport for the same offenses and in the same manner and circumstances as are provided in this section with respect to employees designated by the Administrator.

(d) The officer on duty in command of those employees designated by the Secretary as provided in subsection (a) of this section may accept deposit of collateral from any person charged with the violation of any rule or regulation prescribed under this Act, for appearance in court or before the appropriate United States Commissioner; and such collateral shall be deposited with such United States Commissioner. [49 U.S.C. App. 2428]

SEC. 9. The Secretary may enter into agreements with the State, or any political subdivision thereof, in which the airport or any portion thereof is situated, for such State or municipal services as the Secretary shall deem necessary to the proper and efficient operation and protection of the airport, and he may, from time to time, agree to modifications in any such agreement: *Provided, however,* That where the charge for any such service is established by the laws of the State, the Secretary may not pay for such service in excess of the charge so established. [49 U.S.C. App. 2429]

SEC. 10. Any person who knowingly and willfully violates any rule, regulation, or order issued by the Secretary under this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$500 or to imprisonment not exceeding six months, or to both such fine and imprisonment. [49 U.S.C. App. 2430]

SEC. 11. Unless the context otherwise requires, the definitions of the words and phrases used in this Act shall be the definitions assigned to such words and phrases by the Civil Aeronautics Act of 1938, as amended. [49 U.S.C. App. 2431]

SEC. 12. There is hereby authorized to be appropriated such sum as may be necessary for the construction of the airport authorized by this Act, and such sum shall remain available until expended. There are hereby authorized to be appropriated such other sums as may be necessary to carry out the purposes of this Act. [49 U.S.C. App. 2432]



METROPOLITAN WASHINGTON AIRPORTS ACT OF 1986

Public Law 99-591; 100 Stat. 3341-376, et seq.; 49 U.S.C. App. 2451 et seq.

TITLE VI—METROPOLITAN WASHINGTON AIRPORTS

SEC. 6001. SHORT TITLE.

This title may be cited as the "Metropolitan Washington Airports Act of 1986".

SEC. 6002. FINDINGS.

The Congress finds that—

(1) the two federally owned airports in the metropolitan area of Washington, District of Columbia, constitute an important and growing part of the commerce, transportation, and economic patterns of the Commonwealth of Virginia, the District of Columbia, and the surrounding region;

(2) Baltimore/Washington International Airport, owned and operated by the State of Maryland, is an air transportation facility that provides service to the greater Metropolitan Washington region together with the two federally owned airports, and timely Federal-aid grants to Baltimore/Washington International Airport will provide additional capacity to meet the growing air traffic needs and to compete with other airports on a fair basis;

(3) the Federal Government has a continuing but limited interest in the operation of the two federally owned airports, which serve the travel and cargo needs of the entire Metropolitan Washington region as well as the District of Columbia as the national seat of government;

(4) operation of the Metropolitan Washington Airports by an independent local agency will facilitate timely improvements at both airports to meet the growing demand of interstate air transportation occasioned by the Airline Deregulation Act of 1978 (Public Law 95-504; 92 Stat. 1705);

(5) all other major air carrier airports in the United States are operated by public entities at the State, regional, or local level;

(6) any change in status of the two airports must take into account the interest of nearby communities, the traveling public, air carriers, general aviation, airport employees, and other interested groups, as well as the interests of the Federal Government and State governments involved;

(7) in recognition of a perceived limited need for a Federal role in the management of these airports and the growing local interest, the Secretary has recommended a transfer of authority from the Federal to the local/State level that is consistent

with the management of major airports elsewhere in the Nation;

(8) an operating authority with representation from local jurisdictions, similar to authorities at all major airports in the United States, will improve communications with local officials and concerned residents regarding noise at the Metropolitan Washington Airports;

(9) a commission of congressional, State, and local officials and aviation representatives has recommended to the Secretary that transfer of the federally owned airports be as a unit to an independent authority to be created by the Commonwealth of Virginia and the District of Columbia; and

(10) the Federal interest in these airports can be provided through a lease mechanism which provides for local control and operation. [49 U.S.C. App. 2451]

SEC. 6003. PURPOSE.

(a) **IN GENERAL.**—It is therefore declared to be the purpose of the Congress in this title to authorize the transfer of operating responsibility under long-term lease of the two Metropolitan Washington Airport properties as a unit, including access highways and other related facilities, to a properly constituted independent airport authority created by the Commonwealth of Virginia and the District of Columbia, in order to achieve local control management, operation, and development of these important transportation assets.

(b) **INCLUSION OF BWI NOT PRECLUDED.**—Nothing in this title shall be construed to prohibit the Airports Authority and the State of Maryland from entering into an agreement whereby Baltimore/Washington International Airport may be made part of a regional airports authority, subject to terms and conditions agreed to by the Airports Authority, the Secretary, the Commonwealth of Virginia, the District of Columbia, and the State of Maryland. [49 U.S.C. App. 2452]

SEC. 6004. DEFINITIONS.

In this title—

(1) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of the Federal Aviation Administration.

(2) **AIRPORTS AUTHORITY.**—The term “Airports Authority” means the Metropolitan Washington Airports Authority, a public body to be created by the Commonwealth of Virginia and the District of Columbia consistent with the requirements of section 6007.

(3) **EMPLOYEES.**—The term “employees” means all permanent Federal Aviation Administration personnel employed on the date the lease under section 6005 takes effect by the Metropolitan Washington Airports, an organization within the Federal Aviation Administration.

(4) **METROPOLITAN WASHINGTON AIRPORTS.**—The term “Metropolitan Washington Airports” means Washington National Airport and Washington Dulles International Airport.

(5) **SECRETARY.**—The term “Secretary” means the Secretary of Transportation.

(6) **WASHINGTON DULLES INTERNATIONAL AIRPORT.**—The term “Washington Dulles International Airport” means the airport

constructed under the Act entitled "An Act to authorize the construction, protection, operation, and maintenance of a public airport on or in the vicinity of the District of Columbia", approved September 7, 1950 (64 Stat. 770), and includes the Dulles Airport Access Highway and Right-of-way, including the extension between the Interstate Routes I-495 and I-66.

(7) **WASHINGTON NATIONAL AIRPORT.**—The term "Washington National Airport" means the airport described in the Act entitled "An Act to provide for the administration of the Washington National Airport, and for other purposes", approved June 29, 1940 (54 Stat. 686). [49 U.S.C. App. 2453]

SEC. 6005. LEASE OF METROPOLITAN WASHINGTON AIRPORTS.

(a) **AUTHORITY TO ENTER INTO LEASE.**—The Secretary is authorized to enter into a lease of the Metropolitan Washington Airports with the Airports Authority for a 50-year term and to enter into any related agreement necessary for the transfer of authority and property to the Airports Authority. Authority to enter into a lease and agreement under this section shall lapse two years after the date of the enactment of this title.

(b) **PAYMENTS.**—

(1) **LEASE PAYMENTS.**—The lease shall provide for the Airports Authority to pay to the general fund of the Treasury annually an amount, computed using the GNP Price Deflator, to equal \$3,000,000 in 1987 dollars. The Secretary and the Airports Authority may renegotiate the level of lease payments attributable to inflation costs every ten years.

(2) **RETIREMENT OBLIGATIONS.**—

(A) **DISCONTINUED SERVICE.**—Not later than one year after the lease takes effect, the Airports Authority shall pay to the Treasury of the United States, to be deposited to the credit of the Civil Service Retirement and Disability Fund, an amount determined by the Office of Personnel Management to represent the actual added costs incurred by the Fund due to discontinued service retirement under section 8336(d)(1) of title 5, United States Code, of employees who elect not to transfer to the Airports Authority.

(B) **UNFUNDED LIABILITY.**—Not later than one year after the lease takes effect, the Airports Authority shall pay to the Treasury of the United States, to be deposited to the credit of the Civil Service Retirement and Disability Fund, an amount determined by the Office of Personnel Management to represent the present value of the difference between (i) the future cost of benefits payable from the Fund and due the employees covered under section 6008(e) of this title that are attributable to the period of employment following the date the lease takes effect, and (ii) the contributions made by the employees and the Airports Authority under section 6008(e). In determining the amount due, the Office of Personnel Management shall take into consideration the actual interest such amount can be expected to earn when invested in the Treasury of the United States.

(c) **MINIMUM TERMS AND CONDITIONS.**—The Airports Authority shall agree, at a minimum, to the following conditions and requirements in the lease:

(1) **OPERATION OF AIRPORTS AS A UNIT.**—The Airports Authority shall operate, maintain, protect, promote, and develop the Metropolitan Washington Airports as a unit and as primary airports serving the Metropolitan Washington area.

(2) **AIRPORT PURPOSES.**—The real property constituting the Metropolitan Washington Airports shall, during the period of the lease, be used only for airport purposes. For the purposes of this paragraph, the term "airport purposes" means a use of property interests (other than a sale) for aviation business or activities, or for activities necessary or appropriate to serve passengers or cargo in air commerce, or for nonprofit, public use facilities. If the Secretary determines that any portion of the real property leased to the Airports Authority pursuant to this Act is used for other than airport purposes, the Secretary shall (A) direct that appropriate measures be taken by the Airports Authority to bring the use of such portion of real property in conformity with airport purposes, and (B) retake possession of such portion of real property if the Airports Authority fails to bring the use of such portion into a conforming use within a reasonable period of time, as determined by the Secretary.

(3) **AIP REQUIREMENTS.**—The Airports Authority shall be subject to the requirements of section 511(a) of the Airport and Airway Improvement Act of 1982 and the assurances and conditions required of grant recipients under such Act as of the date the lease takes effect. Notwithstanding section 511(a)(12) of such Act, all revenues generated by the Metropolitan Washington Airports shall be expended for the capital and operating costs of such airports.

(4) **CONTRACTS.**—In acquiring by contract supplies or services for an amount estimated to be in excess of \$200,000, or awarding concession contracts, the Airports Authority shall obtain, to the maximum extent practicable, full and open competition through the use of published competitive procedures. By a vote of seven members, the Airports Authority may grant exceptions to the requirements of this paragraph.

(5) **CONTINUATION OF REGULATIONS.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), all regulations of the Metropolitan Washington Airports (14 C.F.R. part 159) shall become regulations of the Airports Authority on the date the lease takes effect and shall remain in effect until modified or revoked by the Airports Authority in accordance with procedures of the Airports Authority.

(B) **EXCEPTIONS.**—The following regulations shall cease to be in effect on the date the lease takes effect:

(i) section 159.59(a) of title 14, Code of Federal Regulations (relating to new-technology aircraft); and

(ii) section 159.191 of title 14, Code of Federal Regulations (relating to violations of Federal Aviation Administration regulations as Federal misdemeanors).

(C) OPERATIONS.—The Airports Authority may not increase or decrease the number of instrument flight rule takeoffs and landings authorized by the High Density Rule (14 C.F.R. 93.121 et seq.) at Washington National Airport on the date of the enactment of this Act and may not impose a limitation after the date the lease takes effect on the number of passengers taking off or landing at Washington National Airport.

(6) TRANSFER OF RIGHTS, LIABILITIES, AND OBLIGATIONS.—

(A) IN GENERAL.—Except as specified in subparagraph (B) of this paragraph, the Airports Authority shall assume all rights, liabilities, and obligations (tangible and incorporeal, present and executory) of the Metropolitan Washington Airports on the date the lease takes effect, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, accounts payable, and litigation relating to such rights and obligations, regardless whether judgment has been entered, damages awarded, or appeal taken. Before the date the lease takes effect, the Secretary shall also assure that the Airports Authority has agreed to cooperate in allowing representatives of the Attorney General and the Secretary adequate access to employees and records when needed for the performance of functions related to the period before the effectiveness of the lease. The Airports Authority shall assume responsibility for the Federal Aviation Administration's Master Plans for the Metropolitan Washington Airports.

(B) EXCEPTIONS.—The procedure for disputes resolution contained in any contract entered into on behalf of the United States before the date the lease takes effect shall continue to govern the performance of the contract unless otherwise agreed to by the parties to the contract. Claims for monetary damages founded in tort, by or against the United States as the owner and operator of the Metropolitan Washington Airports, arising before the date the lease takes effect shall be adjudicated as if the lease had not been entered into.

(C) PAYMENTS INTO EMPLOYEES' COMPENSATION FUND.—The Federal Aviation Administration shall remain responsible for reimbursing the Employees' Compensation Fund, pursuant to section 8147 of title 5, United States Code, for compensation paid or payable after the date the lease takes effect in accordance with chapter 81 of title 5, United States Code, with regard to any injury, disability, or death due to events arising before such date, whether or not a claim has been filed or is final on such date.

(D) COLLECTIVE BARGAINING RIGHTS.—The Airports Authority shall continue all collective bargaining rights enjoyed before the date the lease takes effect by employees of the Metropolitan Washington Airports.

(7) **AUDITS.**—The Comptroller General of the United States may conduct periodic audits of the activities and transactions of the Airports Authority in accordance with generally accepted management principles, and under such rules and regulations as may be prescribed by the Comptroller General. Any such audit shall be conducted at such place or places as the Comptroller General may deem appropriate. All books, accounts, records, reports, files, papers, and property of the Airports Authority shall remain in possession and custody of the Airports Authority.

(8) **CODE OF ETHICS.**—The Airports Authority shall develop a code of ethics and financial disclosure in order to assure the integrity of all decisions made by its board of directors and employees.

(9) **RESTRICTION ON USE OF CERTAIN REVENUES.**—Notwithstanding any other provision of law, no landing fee imposed for operating an aircraft or revenues derived from parking automobiles—

(A) at Washington Dulles International Airport may be used for maintenance or operating expenses (excluding debt service, depreciation, and amortization) at Washington National Airport; or

(B) at Washington National Airport may be used for maintenance or operating expenses (excluding debt service, depreciation, and amortization) at Washington Dulles International Airport.

(10) **GENERAL AVIATION FEES.**—The Airports Authority shall compute the fees and charges for landing general aviation aircraft at the Metropolitan Washington Airports on the same basis as the landing fees for air carrier aircraft, except that the Airports Authority may require a minimum landing fee not in excess of the landing fee for aircraft weighing 12,500 pounds.

(11) **OTHER TERMS.**—The Secretary shall include such other terms and conditions applicable to the parties to the lease as are consistent with and carry out the provisions of this title.

(d) **SUBMISSION TO CONGRESS.**—The Secretary shall submit the lease entered into under this section to Congress. The lease may not take effect before the passage of (1) 30 days, or (2) 10 days in which either House of Congress is in session, whichever occurs later.

(e) **ENFORCEMENT OF LEASE PROVISIONS.**—The district courts of the United States shall have jurisdiction to compel the Airports Authority and its officers and employees to comply with the terms of the lease. An action may be brought on behalf of the United States by the Attorney General, or by any aggrieved party. [49 U.S.C. App. 2454]

SEC. 6006. CAPITAL IMPROVEMENTS, CONSTRUCTION, AND REHABILITATION.

(a) **IMPROVEMENTS.**—It is the sense of the Congress that the Airports Authority should—

(1) pursue the improvement, construction, and rehabilitation of the facilities at Washington Dulles International Airport and Washington National Airport simultaneously; and

(2) to the extent practicable, cause the improvement, construction, and rehabilitation proposed by the Secretary to be completed at both of such Airports within 5 years after the earliest date on which the Airports Authority issues bonds under the authority required by section 6007 of this title for any such improvement, construction, or rehabilitation.

(b) SECRETARY'S ASSISTANCE.—The Secretary shall assist the three airports serving the Washington, D.C. metropolitan area in planning for operational and capital improvements at those airports and shall accelerate consideration of applications for Federal financial assistance by whichever of the three airports is most in need of increasing airside capacity. [49 U.S.C. App. 2455]

SEC. 6007. AIRPORTS AUTHORITY.

(a) POWERS CONFERRED BY VIRGINIA AND THE DISTRICT OF COLUMBIA.—The Airports Authority shall be a public body corporate and politic, having the powers and jurisdiction as are conferred upon it jointly by the legislative authority of the Commonwealth of Virginia and the District of Columbia or by either of the jurisdictions and concurred in by the legislative authority of the other jurisdiction, but at a minimum meeting the requirements of this section.

(b) PURPOSE.—The Airports Authority shall be—

(1) independent of the Commonwealth of Virginia and its local governments, the District of Columbia, and the Federal Government; and

(2) a political subdivision constituted solely to operate and improve both Metropolitan Washington Airports as primary airports serving the Metropolitan Washington area.

(c) GENERAL AUTHORITIES.—The Airports Authority shall be authorized—

(1) to acquire, maintain, improve, operate, protect, and promote the Metropolitan Washington Airports for public purposes;

(2) to issue bonds from time to time in its discretion for public purposes, including the purposes of paying all or any part of the cost of airport improvements, construction, and rehabilitation, and the acquisition of real and personal property, including operating equipment for the airports, which bonds—

(A) shall not constitute a debt of either jurisdiction or a political subdivision thereof; and

(B) may be secured by the Airports Authority's revenues generally, or exclusively from the income and revenues of certain designated projects whether or not they are financed in whole or part from the proceeds of such bonds;

(3) to acquire real and personal property by purchase, lease, transfer, or exchange, and to exercise such powers of eminent domain within the Commonwealth of Virginia as are conferred upon it by the Commonwealth of Virginia;

(4) to levy fees or other charges; and

(5) to make and maintain agreements with employee organizations to the extent that the Federal Aviation Administration is so authorized on the date of enactment of this title.

(d) **CONFLICT-OF-INTEREST PROVISIONS.**—The Airports Authority shall be subject to a conflict-of-interest provision providing that members of the board and their immediate families may not be employed by or otherwise hold a substantial financial interest in any enterprise that has or is seeking a contract or agreement with the Airports Authority or is an aeronautical, aviation services, or airports services enterprise that otherwise has interests that can be directly affected by the Airports Authority. Exceptions to requirements of the preceding sentence may be made by the official appointing a member at the time the member is appointed, if the financial interest is fully disclosed and so long as the member does not participate in board decisions that directly affect such interest. The Airports Authority shall include in its code developed under section 6005(c)(8) of this title the standards by which members will determine what constitutes a substantial financial interest and the circumstances under which an exception may be granted.

(e) **BOARD OF DIRECTORS.**—

(1) **APPOINTMENT.**—The Airports Authority shall be governed by a board of directors of 11 members, as follows:

(A) five members shall be appointed by the Governor of Virginia;

(B) three members shall be appointed by the Mayor of the District of Columbia;

(C) two members shall be appointed by the Governor of Maryland; and

(D) one member shall be appointed by the President with the advice and consent of the Senate.

The Chairman shall be appointed from among the members by majority vote of the members and shall serve until replaced by majority vote of the members.

(2) **RESTRICTIONS.**—Members shall (A) not hold elective or appointive political office, (B) serve without compensation other than for reasonable expenses incident to board functions, and (C) reside within the Washington Standard Metropolitan Statistical Area, except that the member appointed by the President shall not be required to reside in that area.

(3) **TERMS.**—Members shall be appointed to the board for a term of 6 years, except that of members first appointed—

(A) by the Governor of Virginia, 2 shall be appointed for 4 years and 2 shall be appointed for 2 years;

(B) by the Mayor of the District of Columbia, 1 shall be appointed for 4 years and 1 shall be appointed for 2 years; and

(C) by the Governor of Maryland, 1 shall be appointed for 4 years.

(4) **REMOVAL OF PRESIDENTIAL APPOINTEES.**—A member of the board appointed by the President shall be subject to removal by the President for cause.

(5) **REQUIRED NUMBER OF VOTES.**—Seven votes shall be required to approve bond issues and the annual budget.

(f) **BOARD OF REVIEW.**—

(1) **COMPOSITION.**—The board of directors shall be subject to review of its actions and to requests, in accordance with this subsection, by a Board of Review of the Airports Authority. Such Board of Review shall be established by the board of directors and shall consist of the following, in their individual capacities, as representatives of users of the Metropolitan Washington Airports:

(A) two members of the Public Works and Transportation Committee and two members of the Appropriations Committee of the House of Representatives from a list provided by the Speaker of the House;

(B) two members of the Commerce, Science, and Transportation Committee and two members of the Appropriations Committee of the Senate from a list provided by the President pro tempore of the Senate; and

(C) one member chosen alternately from members of the House of Representatives and members of the Senate, from a list provided by the Speaker of the House or the President pro tempore of the Senate, respectively.

Two members of the Board of Review shall elect a chairman. A member of the House of Representatives or the Senate from Maryland or Virginia and the Delegate from the District of Columbia may not serve on the Board of Review.

(2) **TERMS.**—Members of the Board of Review appointed under subparagraphs (A) and (B) of paragraph (1) shall be appointed for terms of six years, except that of the members first appointed, one member under each of subparagraphs (A) and (B) shall be appointed for a term of two years and one member under each of subparagraphs (A) and (B) shall be appointed for a term of four years. Members of the Board of Review appointed under subparagraph (C) shall be appointed for terms of two years. A vacancy in the Board shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term.

(3) **PROCEDURES.**—The Board of Review shall establish procedures for conducting its business. The procedures may include requirements for a quorum at meetings and for proxy voting. The Board shall meet at least once each year and shall meet at the call of the chairman or 3 members of the Board. Any decision of the Board of Review under paragraph (4) or (5) shall be by a vote of 5 members of the Board.

(4) **DISAPPROVAL PROCEDURE.**—

(A) **SUBMISSION REQUIRED.**—An action of the Airports Authority described in subparagraph (B) shall be submitted to the Board of Review at least 30 days (or at least 60 days in the case of the annual budget) before it is to become effective.

(B) **ACTIONS AFFECTED.**—The following are the actions referred to in subparagraph (A):

(i) the adoption of an annual budget;

- (ii) the authorization for the issuance of bonds;
- (iii) the adoption, amendment, or repeal of a regulation;
- (iv) the adoption or revision of a master plan, including any proposal for land acquisition; and
- (v) the appointment of the chief executive officer.

(C) **30-DAY DISAPPROVAL PERIOD.**—If the Board of Review does not disapprove an action within 30 days of its submission under this paragraph, the action may take effect. If the Board of Review disapproves any such action, it shall notify the Airports Authority and shall give reasons for the disapproval.

(D) **EFFECT OF DISAPPROVAL.**—An action disapproved under this paragraph shall not take effect. Unless an annual budget for a fiscal year has taken effect in accordance with this paragraph, the Airports Authority may not obligate or expend any money in such fiscal year, except for (i) debt service on previously authorized obligations, and (ii) obligations and expenditures for previously authorized capital expenditures and routine operating expenses.

(5) **REQUEST FOR CONSIDERATION OF OTHER MATTERS.**—The Board of Review may request the Airports Authority to consider and vote, or to report, on any matter related to the Metropolitan Washington Airports. Upon receipt of such a request the Airports Authority shall consider and vote, or report, on the matter as promptly as feasible.

(6) **PARTICIPATION IN MEETINGS OF AIRPORTS AUTHORITY.**—Members of the Board of Review may participate as nonvoting members in meetings of the board of the Airports Authority.

(7) **STAFF.**—The Board of Review may hire two staff persons to be paid by the Airports Authority. The Airports Authority shall provide such clerical and support staff as the Board may require.

(8) **LIABILITY.**—A member of the Board of Review shall not be liable in connection with any claim, action, suit, or proceeding arising from service on the Board.

(g) **CERTAIN ACTIONS TO BE TAKEN BY REGULATION.**—Any action of the Airports Authority changing, or having the effect of changing, the hours of operation of or the type of aircraft serving either of the Metropolitan Washington Airports may be taken only by regulation of the Airports Authority.

(h) **LIMITATION ON AUTHORITY.**—If the Board of Review established under subsection (f) is unable to carry out its functions under this title by reason of a judicial order, the Airports Authority shall have no authority to perform any of the actions that are required by paragraph (f)(4) to be submitted to the Board of Review. [49 U.S.C. App. 2456]

SEC. 6008. FEDERAL EMPLOYEES AT THE METROPOLITAN WASHINGTON AIRPORTS.

(a) **EMPLOYEE PROTECTION.**—Not later than the date the lease under section 6005 takes effect, the Secretary shall ensure that the Airports Authority has established arrangements to protect the

employment interests of employees during the 5-year period beginning on such date. These arrangements shall include provisions—

(1) which ensure that the Airports Authority will adopt labor agreements in accordance with the provisions of subsection (b) of this section;

(2) for the transfer and retention of all employees who agree to transfer to the Airports Authority in their same positions for the 5-year period commencing on the date the lease under section 6005 takes effect except in cases of reassignment, separation for cause, resignation, or retirement;

(3) for the payment by the Airports Authority of basic and premium pay to transferred employees, except in cases of separation for cause, resignation, or retirement, for 5 years commencing on the date the lease takes effect at or above the rates of pay in effect for such employees on such date;

(4) for credit during the 5-year period commencing on the date the lease takes effect for accrued annual and sick leave and seniority rights which have been accrued during the period of Federal employment by transferred employees retained by the Airports Authority; and

(5) for an offering of not less than one life insurance and three health insurance programs for transferred employees retained by the Airports Authority during the 5-year period beginning on the date the lease takes effect which are reasonably comparable with respect to employee premium cost and coverage to the Federal health and life insurance programs available to employees on the day before such date.

(b) LABOR AGREEMENTS.—

(1) **ADOPTION.**—The Airports Authority shall adopt all labor agreements which are in effect on the date the lease under section 6005 takes effect. Such agreements shall continue in effect for the 5-year period commencing on such date, unless the agreement provides for a shorter duration or the parties agree to the contrary before the expiration of that 5-year period. Such agreements shall be renegotiated during the 5-year period, unless the parties agree otherwise. Any labor-management negotiation impasse declared before the date the lease takes effect shall be settled in accordance with chapter 71 of title 5, United States Code.

(2) **CONTINUATION.**—The arrangements made pursuant to this section shall assure, during the 50-year lease term, the continuation of all collective bargaining rights enjoyed by transferred employees retained by the Airports Authority.

(c) **RIGHTS OF TERMINATED EMPLOYEES.**—Any transferred employee whose employment with the Airports Authority is terminated during the 5-year period beginning on the date the lease under section 6005 takes effect shall be entitled, as a condition of any lease entered into in accordance with section 6005 of this title, to rights and benefits to be provided by the Airports Authority that are similar to those such employee would have had under Federal law if termination had occurred immediately before such date.

(d) **ANNUAL AND SICK LEAVE.**—Any employee who transfers to the Airports Authority under this section shall not be entitled to

lump-sum payment for unused annual leave under section 5551 of title 5, United States Code, but shall be credited by the Airports Authority with the unused annual leave balance on the date the lease under section 6005 takes effect, along with any unused sick leave balance on such date. During the 5-year period beginning on such date, annual and sick leave shall be earned at the same rates permitted on the day before such date, and observed official holidays shall be the same as those specified in section 6103 of title 5, United States Code.

(e) **CIVIL SERVICE RETIREMENT.**—Any Federal employee who transfers to the Airports Authority and who on the day before the date the lease under section 6005 takes effect is subject to subchapter III of chapter 83 of title 5, United States Code, or chapter 84 of such title shall, so long as continually employed by the Airports Authority without a break in service, continue to be subject to such subchapter or chapter, as the case may be. Employment by the Airports Authority without a break in continuity of service shall be considered to be employment by the United States Government for purposes of such subchapter and chapter. The Airports Authority shall be the employing agency for purposes of such subchapter and chapter and shall contribute to the Civil Service Retirement and Disability Fund such sums as are required by such subchapter and chapter.

(f) **SEPARATED EMPLOYEES.**—An employee who does not transfer to the Airports Authority and who does not otherwise remain a Federal employee shall be entitled to all of the rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to an employee who does not accept an offer of employment from the Airports Authority of work substantially similar to that performed for the Federal Government.

(g) **ACCESS TO RECORDS.**—The Airports Authority shall allow representatives of the Secretary adequate access to employees and employee records of the Airports Authority when needed for the performance of functions related to the period before the date the lease under section 6005 takes effect. The Secretary shall provide the Airports Authority access to employee records of transferring employees for appropriate purposes. [49 U.S.C. App. 2457]

SEC. 6009. RELATIONSHIP TO AND EFFECT OF OTHER LAWS.

(a) **OTHER LAWS.**—In order to assure that the Airports Authority has the same proprietary powers and is subject to the same restrictions with respect to Federal law as any other airport except as otherwise provided in this title, during the period that the lease authorized by section 6005 of this title is in effect—

(1) the Metropolitan Washington Airports shall be considered public airports for purposes of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2201 et seq.); and

(2) the Acts entitled “An Act to provide for the administration of the Washington National Airport, and for other purposes”, approved June 29, 1940 (54 Stat. 686), “An Act to authorize the construction, protection, operation, and maintenance of a public airport in or in the vicinity of the District of Columbia”, approved September 7, 1950 (64 Stat. 770), and “An

Act making supplemental appropriations for the support of the Government for the fiscal year ending June 30, 1941, and for other purposes", approved October 9, 1940 (54 Stat. 1030), shall not apply to the operation of the Metropolitan Washington Airports, and the Secretary shall be relieved of all responsibility under those Acts.

(b) **INAPPLICABILITY OF CERTAIN LAWS.**—The Metropolitan Washington Airports and the Airports Authority shall not be subject to the requirements of any law solely by reason of the retention by the United States of fee simple title to such airports or by reason of the authority of the Board of Review under subsection 6007(f).

(c) **POLICE POWER.**—The Commonwealth of Virginia shall have concurrent police power authority over the Metropolitan Washington Airports, and the courts of the Commonwealth of Virginia may exercise jurisdiction over Washington National Airport.

(d) **PLANNING.**—

(1) **IN GENERAL.**—The authority of the National Capital Planning Commission under section 5 of the Act of June 6, 1924 (40 U.S.C. 71d) shall not apply to the Airports Authority.

(2) **CONSULTATION.**—The Airports Authority shall consult—

(A) with the National Capital Planning Commission and the Advisory Council on Historic Preservation before undertaking any major alterations to the exterior of the main terminal at Washington Dulles International Airport, and

(B) with the National Capital Planning Commission before undertaking development that would alter the skyline of Washington National Airport when viewed from the opposing shoreline of the Potomac River or from the George Washington Parkway.

(e) **OPERATION LIMITATIONS.**—

(1) **HIGH DENSITY RULE.**—The Administrator may not increase the number of instrument flight rule takeoffs and landings authorized for air carriers by the High Density Rule (14 C.F.R. 93.121 et seq.) at Washington National Airport on the date of the enactment of this title and may not decrease the number of such takeoffs and landings except for reasons of safety.

(2) **ANNUAL PASSENGER LIMITATIONS.**—The Federal Aviation Administration air traffic regulation entitled "Modification of Allocation: Washington National Airport" (14 C.F.R. 93.124) shall cease to be in effect on the date of the enactment of this title. [49 U.S.C. App. 2458]

SEC. 6010. AUTHORITY TO NEGOTIATE EXTENSION OF LEASE.

The Secretary and the Airports Authority may at any time negotiate an extension of the lease entered into under section 6005(a). [49 U.S.C. App. 2459]

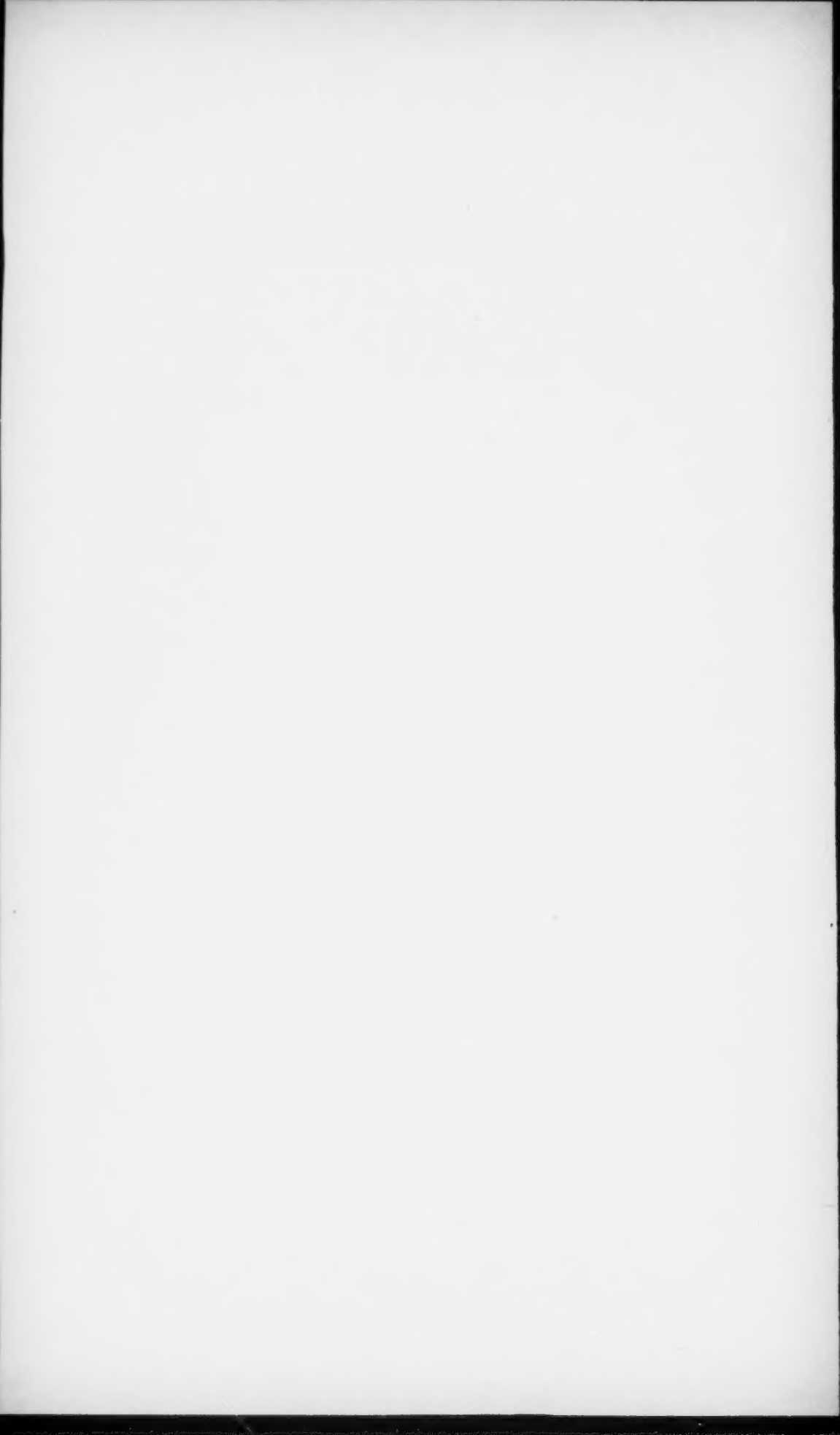
SEC. 6011. SEPARABILITY.

Except as provided in section 6007(h), if any provision of this title or the application thereof to any person or circumstance, is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby. [49 U.S.C. App. 2460]

SEC. 6012. NONSTOP FLIGHTS.

PERIMETER RULE.—An air carrier may not operate an aircraft nonstop in air transportation between Washington National Airport and another airport that is more than 1,250 statute miles away from Washington National Airport. [49 U.S.C. App. 2461]

GOVERNMENT GUARANTY OF LOANS TO AIR CARRIERS



ACT OF SEPTEMBER 7, 1957

Public Law 85-307; 71 Stat. 629; 49 U.S.C. App. 1324 note

AN ACT To provide for Government guaranty of private loans to certain air carriers for purchase of modern aircraft and equipment, to foster the development and use of modern transport aircraft by such carriers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is hereby declared to be the policy of Congress, in the interests of the commerce of the United States, the postal service, and the national defense to promote the development of local, feeder, and short-haul air transportation and to promote the development of local, feeder, and short-haul charter air transportation of cargo. In furtherance of this policy it is deemed necessary and desirable that provision be made to assist certain air carriers, charter air carriers, commuter air carriers, and intrastate air carriers engaged in such air transportation by providing governmental guaranties of loans to enable them to purchase aircraft suitable for such transportation on reasonable terms.

SEC. 2. As used in this Act—

(1) "aircraft purchase loan" means any loan, or commitment in connection therewith, made for the purchase of commercial transport aircraft, including spare parts normally associated therewith;

(2) "air carriers" means any air carrier holding a certificate of public convenience and necessity issued by the Civil Aeronautics Board under section 401(d)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)(1));

(3) "charter air carrier" has the meaning given such term in section 101(14) of the Federal Aviation Act of 1958;

(4) "charter air transportation" has the meaning given such term in section 101(15) of the Federal Aviation Act of 1958;

(5) "commuter air carrier" means any air carrier operating pursuant to section 416(b)(3) of the Federal Aviation Act of 1958 (49 U.S.C. 1386(b)(3)) who operates at least five round trip flights per week between one pair of points in accordance with published flight schedules;

(6) "intrastate air carrier" means any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage primarily in intrastate air transportation (as such term is defined in section 101(26) of the Federal Aviation Act of 1958); and

(7) "Secretary" means the Secretary of Transportation.

SEC. 3. The Secretary is authorized to guarantee any lender against loss of principal or interest on any aircraft purchase loan made by such lender to—

(1) any air carrier whose certificate (A) authorizes such air carrier to provide local or feeder air service, (B) authorizes scheduled passenger operations the major portion of which are conducted within the State of Hawaii, (C) authorizes operations (the major portion of which is conducted either within Alaska or between Alaska and the forty-eight contiguous States), within the State of Alaska (including service between Alaska and the forty-eight contiguous States, and between Alaska and adjacent Canadian territory), or (D) authorizes metropolitan helicopter service,

(2) any charter air carrier for the purchase of any all-cargo nonconvertible aircraft,

(3) any commuter air carrier, or

(4) any intrastate air carrier.

Such guarantee shall be made in such form, on such terms and conditions, and pursuant to such regulations, as the Secretary deems necessary and which are not inconsistent with the provisions of this Act.

SEC. 4. (a) Subject to subsection (b) of this section, no guaranty shall be made—

(1) extending to more than the unpaid interest and 90 per cent of the unpaid principal of any loan;

(2) on any loan or combination of loans for more than 90 per cent of the purchase price of the aircraft, including spare parts, to be purchased therewith;

(3) on any loan whose terms permit full repayment more than 15 years after the date thereof;

(4) wherein the total face amount of such loan, and of any other loans to the same air carrier, charter air carrier, commuter air carrier, or intrastate air carrier or corporate predecessor of such air carrier, charter air carrier, commuter air carrier, or intrastate air carrier guaranteed and outstanding under the terms of this Act exceeds \$100,000,000;

(5) unless the Secretary finds that, without such guaranty, in the amount thereof, the air carrier, charter air carrier, commuter air carrier, or intrastate air carrier would be unable to obtain necessary funds for the purchase of needed aircraft on reasonable terms;

(6) unless the Secretary finds that the aircraft to be purchased with the guaranteed loan is needed to improve the service and efficiency of operation of the air carrier, charter air carrier, commuter air carrier, or intrastate air carrier;

(7) unless the Secretary finds that the prospective earning power—

(A) of the applicant air carrier or charter air carrier, together with the character and value of the security pledged, furnish (i) reasonable assurances of the applicant's ability to repay the loan within the time fixed therefor, and (ii) reasonable protection to the United States; and

(B) of the applicant commuter air carrier or intrastate air carrier, together with the character and value of the security pledged, furnish (i) reasonable assurances of the applicant's ability and intention to repay the loan within

the time fixed therefor, to continue its operations as a commuter air carrier or intrastate air carrier, and to the extent found necessary by the Secretary, to continue its operations as a commuter air carrier or intrastate air carrier between the same route or routes being operated by such applicant at the time of the loan guarantee, and (ii) reasonable protection to the United States; and

(8) on any loan or combination of loans for the purchase of any new turbojet-powered aircraft which does not comply with the noise standards prescribed for new subsonic aircraft in regulations issued by the Secretary acting through the Administrator of the Federal Aviation Administration (14 CFR part 36), as such regulations were in effect on January 1, 1977.

(b) No guaranty shall be made by the Secretary under subsection (a) of this section on any loan for the purchase of any all-cargo non-convertible aircraft by any charter air carrier in an amount which, together with any other loans guaranteed and outstanding under this Act to such charter air carrier, or corporate predecessor of such charter air carrier, would result in the ratio of the total face amount of such loans to \$100,000,000 exceeding the ratio of the amount of charter air transportation of such charter air carrier provided to medium, small, and non-hub airports during the twelve-month period preceding the date on which the application for such guaranty is made by such charter air carrier to the total amount of charter air transportation of such charter air carrier during such twelve-month period.

SEC. 5. The Secretary shall prescribe and collect from the lending institution a reasonable guaranty fee in connection with each loan guaranteed under this Act.

SEC. 6. (a) To permit him to make use of such expert advice and services as he may require in carrying out the provisions of this Act, the Secretary may use available services and facilities of other agencies and instrumentalities of the Federal Government with their consent and on a reimbursable basis.

(b) Departments and agencies of the Federal Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the objectives of this Act.

(c) The Secretary shall make available to the Comptroller General of the United States such information with respect to the loan guaranty program under this Act as the Comptroller General may require to carry out his duties under the Budget and Accounting Act, 1921.

SEC. 7. (a) Receipts under this Act shall be credited to miscellaneous receipts of the Treasury.

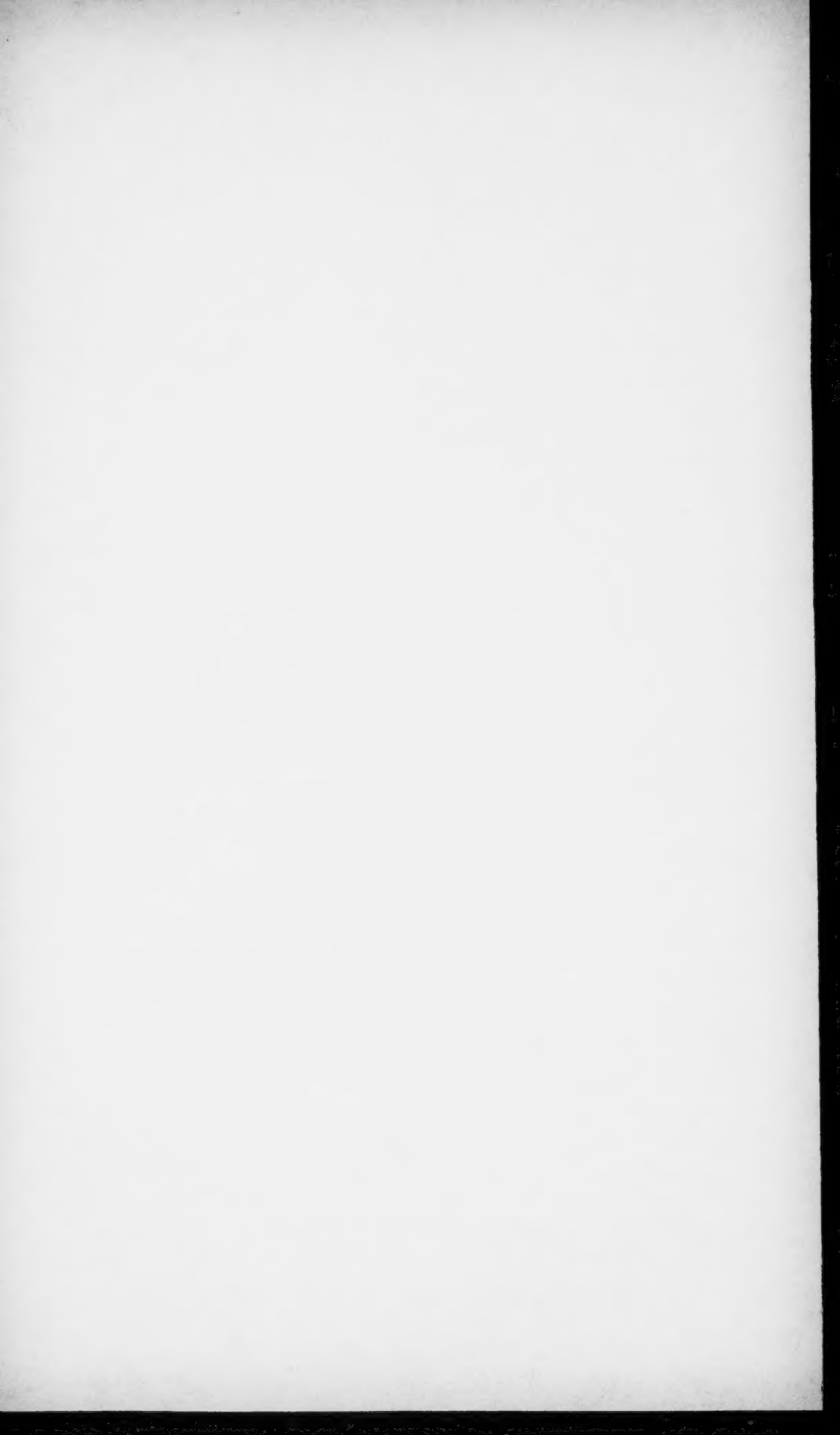
(b) Payments to lenders required as a consequence of any guaranty under this Act may be made from funds which are hereby authorized to be appropriated to the Department of Commerce for that purpose.

(c) Administrative expenses under this Act shall be paid from appropriations to the Department of Commerce for administrative expenses.

SEC. 8. The authority of the Secretary under section 3 of this Act shall terminate five years after the date of enactment of this section.



ACTS RELATING TO SURPLUS AIRPORT PROPERTY



SECTION 13(g) OF THE SURPLUS PROPERTY ACT OF 1944

As added Act of July 30, 1947; 61 Stat. 678; 50 U.S.C. App. 1622(g)

AN ACT To aid the reconversion from a war to a peace economy through the distribution of Government surplus property and to establish a Surplus Property Board to effectuate the same, and for other purposes.

* * * * *

DISPOSAL TO LOCAL GOVERNMENTS AND NONPROFIT INSTITUTIONS

SEC. 13. (a) * * *

* * * * *

(g)(1) Notwithstanding any other provision of this Act, any disposal agency designated pursuant to this Act may, with the approval of the Administrator, convey or dispose of to any State, political subdivision, municipality, or tax-supported institution, without monetary consideration to the United States, but subject to the terms, conditions, reservations, and restrictions hereinafter provided for, all of the right, title, and interest of the United States in and to any surplus real or personal property (exclusive of property the highest and best use of which is determined by the Administrator to be industrial and which shall be so classified for disposal without regard to the provisions of this subsection) which, in the determination of the Administrator of the Federal Aviation Agency, is essential, suitable, or desirable for the development, improvement, operation, or maintenance of a public airport as defined in the Airport and Airway Improvement Act of 1982 or reasonably necessary to fulfill the immediate and foreseeable future requirements of the grantee for the development, improvement, operation, or maintenance of a public airport, including property needed to develop sources of revenue from nonaviation businesses at a public airport.

(2) Except as provided in paragraph (3) hereof, all property disposed of under the authority of this subsection shall be disposed of on and subject to the following terms, conditions, reservations, and restrictions:

(A) No property disposed of under the authority of this subsection shall be used, leased, sold, salvaged, or disposed of by the grantee or transferee for other than airport purposes without the written consent of the Administrator of the Federal Aviation Agency, which consent shall be granted only if the Administrator of the Federal Aviation Agency determines that the property can be used, leased, sold, salvaged, or disposed of for other than airport purposes without materially and adversely affecting the development, improvement, operation, or maintenance of the airport at which such property is located.

(B) All property transferred for airport purposes shall be used and maintained for the use and benefit of the public, without unjust discrimination.

(C) No exclusive right for the use of the airport at which the property disposed of is located shall be vested (either directly or indirectly) in any person or persons to the exclusion of others in the same class. For the purpose of this condition, an exclusive right is defined to mean—

(1) any exclusive right to use the airport for conducting any particular aeronautical activity requiring operation of aircraft;

(2) any exclusive right to engage in the sale or supplying of aircraft, aircraft accessories, equipment, or supplies (excluding the sale of gasoline and oil), or aircraft services necessary for the operation of aircraft (including the maintenance and repair of aircraft, aircraft engines, propellers, and appliances).

(D) The grantee shall, insofar as it is within its powers, adequately clear and protect the aerial approaches to the airport by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

(E) During any national emergency declared by the President or by the Congress, the United States shall have the right to make exclusive or nonexclusive use and have exclusive or nonexclusive control and possession, without charge, of the airport at which the surplus property is located or used, or of such portion thereof as it may desire: *Provided, however,* That the United States shall be responsible for the entire cost of maintaining such part of the airport as it may use exclusively, or over which it may have exclusive possession and control, during the period of such use, possession, or control, and shall be obligated to contribute a reasonable share, commensurate with the use made by it, of the cost of maintenance of such property as it may use nonexclusively or over which it may have nonexclusive control and possession: *Provided, further,* That the United States shall pay a fair rental for its use, control, or possession, exclusively or nonexclusively, of any improvements to the airport made without United States aid.

(F) The United States shall at all times have the right to make nonexclusive use of the landing area of the airport at which the surplus property is located or used, without charge: *Provided, however,* That such use may be limited as may be determined at any time by the Administrator of the Federal Aviation Agency to be necessary to prevent undue interference with use by other authorized aircraft: *Provided further,* That the United States shall be obligated to pay for damages caused by such use, or if its use of the landing area is substantial, to contribute a reasonable share of the cost of maintaining and operating the landing area, commensurate with the use made by it.

(G) A public agency accepting a conveyance or transfer of surplus property under the provisions of this subsection shall release the United States from any and all liability it may be under for restoration or other damages under any lease or other agreement covering the use by the United States of any airport, or part thereof, owned, controlled, or operated by the public agency upon which,

adjacent to which, or in connection with which, the surplus property was located or used: *Provided*, That no such release shall be construed as depriving the public agency of any right it may otherwise have to receive reimbursement under section 17 of the Federal Airport Act for the necessary rehabilitation or repair of public airports heretofore or hereafter substantially damaged by any Federal agency.

(H) In the event that any of the terms, conditions, reservations, and restrictions upon or subject to which the property is disposed of is not met, observed, or complied with, all of the property so disposed of or any portion thereof, shall, at the option of the United States, revert to the United States in its then existing condition.

(3) In making any disposition of surplus property under this subsection (g), the disposal agency is authorized, upon the request of the Administrator of the Federal Aviation Agency, the Secretary of War, or the Secretary of the Navy, to omit from the instruments of disposal any of the terms, conditions, reservations, and restrictions required by paragraph (2) hereof, and to include any additional terms, conditions, reservations, and restrictions, if the Administrator of Civil Aeronautics, the Secretary of War, or the Secretary of the Navy determines that such omission or inclusion is necessary to protect or advance the interests of the United States in civil aviation or for national defense.

(5) All surplus property within the purview of this subsection which is not disposed of pursuant hereto shall be disposed of as provided elsewhere in this Act or other applicable Federal Statute.

(6) Notwithstanding the provisions of subsection (f) of this section and subsection (e) of section 18, the disposal of surplus property under this subsection, which is determined by the Administrator to be available for the purposes enumerated in this subsection, shall be given priority immediately following transfers to other Government agencies under section 12.



ACT OF OCTOBER 1, 1949

63 Stat. 700; 50 U.S.C. App 1622a et seq.

AN ACT To amend Public Law 289, Eightieth Congress, with respect to surplus airport property and to provide for the transfer of compliance functions with relation to such property.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That * * **

SEC. 2. Notwithstanding any other provision of law, the restriction against use of structures for industrial purposes, as contained in any deed or instrument of disposal pursuant to section 13(g)(2)(A) of the Surplus Property Act of 1944 (58 Stat. 765), as amended by the Act of July 30, 1947 (61 Stat. 678), shall, from and after the effective date of this Act, be deemed extinguished and of no force and effect. The Administrator of the Federal Aviation Agency is hereby authorized to issue such instruments of release or correction, as may be necessary to effect removal of record of such restriction from any of such deeds or other instruments of disposal, without monetary consideration to the United States

SEC. 3. The Administrator of the Federal Aviation Agency shall have the sole responsibility for determining and enforcing compliance with the terms, conditions, reservations, and restrictions contained in any instrument of disposal by which surplus property is or has been transferred to States and their political subdivisions, municipalities, and tax-supported institutions pursuant to the Surplus Property Act of 1944, for use in the development, improvement, operation, or maintenance of a public airport or to provide sources of revenue from nonaviation businesses at a public airport (including property transferred for any such use pursuant to such act prior to July 30, 1947), and the Administrator is authorized to reform, correct, or amend any instrument of disposal by which such property was conveyed by the issuance of a corrective, reformatory, or amendatory instrument where such action is determined by him to be necessary to correct such instrument or to conform the transfer to the requirements of applicable law

SEC. 4. Notwithstanding any other provision of law, the Administrator of the Federal Aviation Agency is further authorized, without monetary consideration to the United States, to grant releases from any of the terms, conditions, reservations, and restrictions contained in, and to convey, quitclaim, or release any right or interest reserved to the United States by, any such instrument of disposal, if he determines that the property transferred by such instrument no longer serves the purpose for which it was transferred, or that such release, conveyance, or quitclaim will not prevent accomplishment of the purpose for which the property was transferred and is necessary to protect or advance the interests of the United States in civil aviation: *Provided, That* any such re-

lease, conveyance, or quitclaim may be granted on, or made subject to, such terms and conditions as the Administrator of the Federal Aviation Agency deems necessary to protect or advance the interests of the United States in civil aviation: *And provided further,* That no release, conveyance, or quitclaim shall be executed by the Administrator pursuant to this section except upon the condition that, in the event that the property to which such release, conveyance, or quitclaim relates shall be sold to any third party within five years after the date of enactment of this Act, the proceeds of such sale shall be devoted exclusively to the development, improvement, operation, or maintenance of a public airport.

HAZARDOUS MATERIALS TRANSPORTATION ACT



HAZARDOUS MATERIALS TRANSPORTATION ACT

(as amended through 1988)

Public Law 93-633, 88 Stat. 2156, 49 U.S.C. App. 1801 et seq.

AN ACT To regulate commerce by improving the protections afforded the public against risks connected with the transportation of hazardous materials, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Transportation Safety Act of 1974".

TITLE I—HAZARDOUS MATERIALS

SHORT TITLE

SEC. 101. This title may be cited as the "Hazardous Materials Transportation Act".

DECLARATION OF POLICY

SEC. 102. It is declared to be the policy of Congress in this title to improve the regulatory and enforcement authority of the Secretary of Transportation to protect the Nation adequately against the risks to life and property which are inherent in the transportation of hazardous materials in commerce. [42 U.S.C. App. 1801]

DEFINITIONS

SEC. 103. As used in this title, the term—

(1) "commerce" means trade, traffic, commerce, or transportation, within the jurisdiction of the United States, (A) between a place in a State and any place outside of such State, or (B) which affects trade, traffic, commerce, or transportation described in clause (A);

(2) "hazardous material" means a substance or material in a quantity and form which may pose an unreasonable risk to health and safety or property when transported in commerce;

(3) "Secretary" means the Secretary of Transportation, or his delegate;

(4) "serious harm" means death, serious illness, or severe personal injury;

(5) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, or Guam;

(6) "transports" or "transportation" means any movement of property by any mode, and any loading, unloading, or storage incidental thereto; and

(7) "United States" means all of the States. [42 U.S.C. App. 1802]

DESIGNATION OF HAZARDOUS MATERIALS

SEC. 104. Upon a finding by the Secretary, in his discretion, that the transportation of a particular quantity and form of material in commerce may pose an unreasonable risk to health and safety or property, he shall designate such quantity and form of material or group or class of such materials as a hazardous material. The materials so designated may include, but are not limited to, explosives, radioactive materials, etiologic agents, flammable liquids or solids, combustible liquids or solids, poisons, oxidizing or corrosive materials, and compressed gases. [49 U.S.C. App. 1803]

REGULATIONS GOVERNING TRANSPORTATION OF HAZARDOUS MATERIALS

SEC. 105. (a) GENERAL.—The Secretary may issue, in accordance with the provisions of section 553 of title 5, United States Code, including an opportunity for informal oral presentation, regulations for the safe transportation in commerce of hazardous materials. Such regulations shall be applicable to any person who transports, or causes to be transported or shipped, a hazardous material, or who manufactures, fabricates, marks, maintains, reconditions, repairs, or tests a package or container which is represented, marked, certified, or sold by such person for use in the transportation in commerce of certain hazardous materials. Such regulations may govern any safety aspect of the transportation of hazardous materials which the Secretary deems necessary or appropriate, including, but not limited to, the packing, repacking, handling, labeling, marking, placarding, and routing (other than with respect to pipelines) of hazardous materials, and the manufacture, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold by such person for use in the transportation of certain hazardous materials.

(b) COOPERATION.—In addition to other applicable requirements, the Secretary shall consult and cooperate with representatives of the Interstate Commerce Commission and shall consider any relevant suggestions made by such Commission, before issuing any regulation with respect to the routing of hazardous materials. Such Commission shall, to the extent of its lawful authority, take such action as is necessary or appropriate to implement any such regulation.

(c) REPRESENTATION.—No person shall, by marking or otherwise, represent that a container or package for the transportation of hazardous materials is safe, certified, or in compliance with the requirements of this Act, unless it meets the requirements of all applicable regulations issued under this Act. [49 U.S.C. App. 1804]

HANDLING OF HAZARDOUS MATERIALS

SEC. 106. (a) CRITERIA.—The Secretary is authorized to establish criteria for handling hazardous materials. Such criteria may include, but need not be limited to, a minimum number of personnel;

a minimum level of training and qualification for such personnel; type and frequency of inspection; equipment to be used for detection, warning, and control of risks posed by such materials; specifications regarding the use of equipment and facilities used in the handling and transportation of such materials; and a system of monitoring safety assurance procedures for the transportation of such materials. The Secretary may revise such criteria as required.

(b) **REGISTRATION.**—Each person who transports or causes to be transported or shipped in commerce hazardous materials or who manufactures, fabricates, marks, maintains, reconditions, repairs, or tests packages or containers which are represented, marked, certified, or sold by such person for use in the transportation in commerce of certain hazardous materials (designated by the Secretary) may be required by the Secretary to prepare and submit to the Secretary a registration statement not more often than once every 2 years. Such a registration statement shall include, but need not be limited to, such person's name; principal place of business; the location of each activity handling such hazardous materials; a complete list of all such hazardous materials handled; and an averment that such person is in compliance with all applicable criteria established under subsection (a) of this section. The Secretary shall by regulation prescribe the form of any such statement and the information required to be included. The Secretary shall make any registration statement filed pursuant to this subsection available for inspection by any person, without charge, except that nothing in this sentence shall be deemed to require the release of any information described by subsection (b) of section 552 of title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

(c) **REQUIREMENT.**—No person required to file a registration statement under subsection (b) of this section may transport or cause to be transported or shipped hazardous materials, or manufacture, fabricate, mark, maintain, recondition, repair, or test packages or containers for use in the transportation of hazardous materials, unless he has on file a registration statement. [49 U.S.C. App. 1805]

EXEMPTIONS

SEC. 107. (a) GENERAL.—The Secretary, in accordance with procedures prescribed by regulation, is authorized to issue or renew, to any person subject to the requirements of this title, an exemption from the provisions of this title, and from regulations issued under section 105 of this title, if such person transports or causes to be transported or shipped hazardous materials in a manner so as to achieve a level of safety (1) which is equal to or exceeds that level of safety which would be required in the absence of such exemption, or (2) which would be consistent with the public interest and the policy of this title in the event there is no existing level of safety established. The maximum period of an exemption issued or renewed under this section shall not exceed 2 years, but any such exemption may be renewed upon application to the Secretary. Each person applying for such an exemption or renewal shall, upon application, provide a safety analysis as prescribed by the Secretary to justify the grant of such exemption. A notice of an application for issuance or renewal of such exemption shall be published in the

Federal Register. The Secretary shall afford access to any such safety analysis and an opportunity for public comment on any such application, except that nothing in this sentence shall be deemed to require the release of any information described by subsection (b) of section 552 of title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

(b) **VESSELS.**—The Secretary shall exclude, in whole or in part, from any applicable provisions and regulations under this title, any vessel which is excepted from the application of section 201 of the Ports and Waterways Safety Act of 1972 by paragraph (2) of such section (46 U.S.C. 391a(2)), or any other vessel regulated under such Act, to the extent of such regulation.

(c) **FIREARMS AND AMMUNITION.**—Nothing in this title, or in any regulation issued under this title, shall be construed to prohibit or regulate the transportation by any individual, for personal use, of any firearm (as defined in paragraph (4) of section 232 of title 18, United States Code) or any ammunition therefor, or to prohibit any transportation of firearms or ammunition in commerce.

(d) **LIMITATION ON AUTHORITY.**—Except when the Secretary determines that an emergency exists, exemptions or renewals granted pursuant to this section shall be the only means by which a person subject to the requirements of this title may be exempted from or relieved of the obligation to meet any requirements imposed under this title. [49 U.S.C. App. 1806]

TRANSPORTATION OF RADIOACTIVE MATERIALS ON PASSENGER-CARRYING AIRCRAFT

SEC. 108. (a) **GENERAL.**—Within 120 days after the date of enactment of this section, the Secretary shall issue regulations, in accordance with this section and pursuant to section 105 of this title, with respect to the transportation of radioactive materials on any passenger-carrying aircraft in air commerce, as defined in section 101(4) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(4)). Such regulations shall prohibit any transportation of radioactive materials on any such aircraft unless the radioactive materials involved are intended for use in, or incident to, research, or medical diagnosis or treatment, so long as such materials as prepared for and during transportation do not pose an unreasonable hazard to health and safety. The Secretary shall further establish effective procedures for monitoring and enforcing the provisions of such regulations.

(b) **DEFINITION.**—As used in this section, “radioactive materials” means any materials or combination of materials which spontaneously emit ionizing radiation. The term does not include materials in which (1) the estimated specific activity is not greater than 0.002 microcuries per gram of material; and (2) the radiation is distributed in an essentially uniform manner. [49 U.S.C. App. 1807]

POWERS AND DUTIES OF THE SECRETARY

SEC. 109. (a) **GENERAL.**—The Secretary is authorized, to the extent necessary to carry out his responsibilities under this title, to conduct investigations, make reports, issue subpoenas, conduct hearings, require the production of relevant documents, records,

and property, take depositions, and conduct, directly or indirectly, research, development, demonstration, and training activities. The Secretary is further authorized, after notice and an opportunity for a hearing, to issue orders directing compliance with this title or regulations issued under this title; the district courts of the United States shall have jurisdiction, upon petition by the Attorney General, to enforce such orders by appropriate means.

(b) **RECORDS.**—Each person subject to requirements under this title shall establish and maintain such records, make such reports, and provide such information as the Secretary shall by order or regulation prescribe, and shall submit such reports and shall make such records and information available as the Secretary may request.

(c) **INSPECTION.**—The Secretary may authorize any officer, employee, or agent to enter upon, inspect, and examine, at reasonable times and in a reasonable manner, the records and properties of persons to the extent such records and properties relate to—

(1) the manufacture, fabrication, marking, maintenance, reconditioning, repair, testing, or distribution of packages or containers for use by any person in the transportation of hazardous materials in commerce; or

(2) the transportation or shipment by any person of hazardous materials in commerce.

Any such officer, employee, or agent shall, upon request, display proper credentials.

(d) **FACILITIES AND DUTIES.**—(1) The Secretary shall—

(A) establish and maintain facilities and technical staff sufficient to provide, within the Federal government, the capability of evaluating risks connected with the transportation of hazardous materials and materials alleged to be hazardous;

(B) establish and maintain a central reporting system and data center so as to be able to provide the law-enforcement and firefighting personnel of communities, and other interested persons and government officers, with technical and other information and advice for meeting emergencies connected with the transportation of hazardous materials; and

(C) conduct a continuing review of all aspects of the transportation of hazardous materials in order to determine and to be able to recommend appropriate steps to assure the safe transportation of hazardous materials.

(2) Nothing in this subsection shall be construed to limit the authority of the Secretary to enter into a contract with a private entity for use of a supplemental reporting system and data center operated and maintained by such entity.

(e) **ANNUAL REPORT.**—The Secretary shall prepare and submit to the President for transmittal to the Congress on or before June 15 of each year a comprehensive report on the transportation of hazardous materials during the preceding calendar year. Such report shall include, but need not be limited to—

(1) a thorough statistical compilation of any accidents and casualties involving the transportation of hazardous materials;

(2) a list and summary of applicable Federal regulations, criteria, orders, and exemptions in effect;

(3) a summary of the basis for any exemptions granted or maintained;

(4) an evaluation of the effectiveness of the enforcement activities and the degree of voluntary compliance with applicable regulations;

(5) a summary of outstanding problems confronting the administration of this title, in order of priority; and

(6) such recommendations for additional legislation as are deemed necessary or appropriate. [49 U.S.C. App. 1808]

PENALTIES

SEC. 110. (a) CIVIL.—(1) Any person (except an employee who acts without knowledge) who is determined by the Secretary, after notice and an opportunity for a hearing, to have knowingly committed an act which is a violation of a provision of this title or of a regulation issued under this title, shall be liable to the United States for a civil penalty. Whoever knowingly commits an act which is a violation of any regulation, applicable to any person who transports or causes to be transported or shipped hazardous materials, shall be subject to a civil penalty of not more than \$10,000 for each violation, and if any such violation is a continuing one, each day of violation constitutes a separate offense. Whoever knowingly commits an act which is a violation of any regulation applicable to any person who manufactures, fabricates, marks, maintains, reconditions, repairs, or tests a package or container which is represented, marked, certified, or sold by such person for use in the transportation in commerce of hazardous materials shall be subject to a civil penalty of not more than \$10,000 for each violation. The amount of any such penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

(2) Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, prior to referral to the Attorney General, such civil penalty may be compromised by the Secretary. The amount of such penalty, when finally determined (or agreed upon in compromise), may be deducted from any sums owed by the United States to the person charged. All penalties collected under this subsection shall be deposited in the Treasury of the United States as miscellaneous receipts.

(b) CRIMINAL.—A person is guilty of an offense if he willfully violates a provision of this title or a regulation issued under this title. Upon conviction, such person shall be subject, for each offense, to a fine or not more than \$25,000, imprisonment for a term not to exceed 5 years, or both. [49 U.S.C. App. 1809]

SPECIFIC RELIEF

SEC. 111. (a) GENERAL.—The Attorney General, at the request of the Secretary, may bring an action in an appropriate district court of the United States for equitable relief to redress a violation by any person of a provision of this title, or an order or regulation issued under this title. Such district courts shall have jurisdiction to determine such actions and may grant such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

(b) IMMINENT HAZARD.—If the Secretary has reason to believe that an imminent hazard exists, he may petition an appropriate district court of the United States, or upon his request the Attorney General shall so petition, for an order suspending or restricting the transportation of the hazardous material responsible for such imminent hazard, or for such other order as is necessary to eliminate or ameliorate such imminent hazard. As used in this subsection, an “imminent hazard” exists if there is substantial likelihood that serious harm will occur prior to the completion of an administrative hearing or other formal proceeding initiated to abate the risk of such harm. [49 U.S.C. App. 1810]

RELATIONSHIP TO OTHER LAWS

SEC. 112. (a) GENERAL.—Except as provided in subsection (b) of this section, any requirement, of a State or political subdivision thereof, which is inconsistent with any requirement set forth in this title, or in a regulation issued under this title, is preempted.

(b) STATE LAWS.—Any requirement, of a State or political subdivision thereof, which is not consistent with any requirement set forth in this title, or in a regulation issued under this title, is not preempted if, upon the application of an appropriate State agency, the Secretary determines, in accordance with procedures to be prescribed by regulation, that such requirement (1) affords an equal or greater level of protection to the public than is afforded by the requirements of this title or of regulations issued under this title and (2) does not unreasonably burden commerce. Such requirement shall not be preempted to the extent specified in such determination by the Secretary for so long as such State or political subdivision thereof continues to administer and enforce effectively such requirement.

(c) OTHER FEDERAL LAWS.—The provisions of this title shall not apply to pipelines which are subject to regulation under the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1671 et seq.) or to pipelines which are subject to regulation under chapter 39 of title 18, United States Code. [49 U.S.C. App. 1811]

CONFORMING AMENDMENTS

SEC. 113. (a) [Repealed].

(b) Section 901(a)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1471(a)(1)) is amended—

(1) by inserting immediately before the period at the end of the first sentence thereof and inserting in lieu thereof: “, except that the amount of such civil penalty shall not exceed

\$10,000 for each such violation which relates to the transportation of hazardous materials.”; and

(2) by deleting in the second sentence thereof “: *Provided, That this*” and inserting in lieu thereof the following: “. The amount of any such civil penalty which relates to the transportation of hazardous materials shall be assessed by the Secretary, or his delegate, upon written notice upon a finding of violation by the Secretary, after notice and an opportunity for a hearing. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require. This”.

(c) Section 902(h) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472(h)) is amended to read as follows:

“HAZARDOUS MATERIALS

“(h)(1) In carrying out his responsibilities under this Act, the Secretary of Transportation may exercise the authority vested in him by section 105 of the Hazardous Materials Transportation Act to provide by regulation for the safe transportation of hazardous materials by air.

“(2) A person is guilty of an offense if he willfully delivers or causes to be delivered to an air carrier or to the operator of a civil aircraft for transportation in air commerce, or if he recklessly causes the transportation in air commerce of, any shipment, baggage, or other property which contains a hazardous material, in violation of any rule, regulation, or requirement with respect to the transportation of hazardous materials issued by the Secretary of Transportation under this Act. Upon conviction, such person shall be subject, for each offense, to a fine of not more than \$25,000, imprisonment for a term not to exceed 5 years, or both.

“(3) Nothing in this subsection shall be construed to prohibit or regulate the transportation by any individual, for personal use, of any firearm (as defined in paragraph (4) of section 232 of title 18, United States Code) or any ammunition therefor.”.

(d) Section 6(c)(1) of the Department of Transportation Act (49 U.S.C. 1655(c)(1)) is amended by inserting in the first sentence thereof after “aviation safety” and before “as set forth in” the following: “(other than those relating to the transportation, packaging, marking, or description of hazardous materials)”.

(e)(1) Section 6(f)(3)(A) of the Department of Transportation Act (49 U.S.C. 1655(f)(3)(A)) is amended by striking out the period at the end thereof and by inserting in lieu thereof “(other than subsection (e)(4)).”.

(2) Section 6(f)(3)(B) of the Department of Transportation Act (49 U.S.C. 1655(f)(3)(B)) is amended by striking out the period at the end thereof and by inserting in lieu thereof “(other than subsection (e)(4)).”.

(g) The Hazardous Materials Transportation Control Act of 1970 (Pub. L. 91-458, title III; 49 U.S.C. 1761-1762) is repealed.

EFFECTIVE DATE

SEC. 114. (a) Except as provided in this section, the provisions of this title shall take effect on the date of enactment.

(b)(1) Except as provided in section 108 of this title or paragraph (2) of this subsection, any order, determination, rule, regulation, permit, contract, certificate, license, or privilege issued, granted, or otherwise authorized or allowed, prior to the date of enactment of this title, pursuant to any provision of law amended or repealed by this title, shall continue in effect according to its terms or until repealed, terminated, withdrawn, amended, or modified by the Secretary or a court of competent jurisdiction.

(2) The Secretary shall take all steps necessary to bring orders, determinations, rules, and regulations into conformity with the purposes and provisions of this title as soon as practicable, but in any event no permits, contracts, certificates, licenses, or privileges granted prior to the date of enactment of this title, or renewed or extended thereafter, shall be of any effect more than 2 years after the date of enactment of this title, unless there is full compliance with the purposes and provisions of this Act and regulations thereunder.

(c) Proceedings pending upon the date of enactment of this title shall not be affected by the provisions of this title and shall be completed as if this title had not been enacted, unless the Secretary makes a determination that the public health and safety otherwise require.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 115. There is authorized to be appropriated to carry out the provisions of this title not to exceed \$7,500,000 for the fiscal year ending September 30, 1985, and \$8,000,000 for the fiscal year ending September 30, 1986. [49 U.S.C. App. 1812]

EVALUATION OF TRAINING PROGRAMS FOR INCIDENT PREVENTION AND RESPONSE

SEC. 116. (a) EVALUATION.—The Secretary and the Director of the Federal Emergency Management Agency (hereinafter in this section referred to as the "Director"), in coordination with other Federal, State, and local agencies with responsibilities relating to transportation of hazardous materials (including but not limited to the Environmental Protection Agency, the Department of Energy, and the Nuclear Regulatory Commission), shall each evaluate—

(1) programs conducted by Federal, State, and local agencies and private organizations which provide training to shippers, carriers, inspectors, and enforcement personnel involved in the transportation of hazardous materials with respect to compliance with and enforcement of rules, regulations, standards, and orders promulgated by the Secretary under the authority of this title;

(2) programs conducted by Federal, State, and local agencies and private organizations which provide training to agencies or organizations responsible for responding to incidents involving transportation of hazardous materials; and

(3) planning programs conducted by Federal, State, and local agencies and private organizations for responding to incidents involving transportation of hazardous materials.

(b) REPORT.—Not later than five months after the date of the enactment of this section, the Secretary and the Director shall each submit an interim report of the Congress on the results of their respective evaluations under subsection (a). Not later than 10 months after the date of the enactment of this section, the Secretary and the Director, shall complete such evaluations and submit the results of such evaluations to the Congress. Such reports shall include, but not be limited to—

(1) a description of existing planning programs for responding to incidents involving transportation of hazardous materials;

(2) a description of Federal, State, and (to the extent feasible) local training programs for responding to incidents involving transportation of hazardous materials and for compliance with and enforcement of rules, regulations, standards, and orders promulgated by the Secretary under the authority of this title;

(3) the amounts of funds expended per fiscal year in fiscal years 1980, 1981, 1982, 1983, and 1984 by Federal and State agencies on training programs described in paragraph (2); and

(4) recommendations concerning methods of funding such training programs, including but not limited to methods which assure long-term funding for such programs. [49 U.S.C. App. 1813]

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SELECTED PROVISIONS OF SUBTITLE I OF TITLE 49, UNITED
STATES CODE



SUBTITLE I OF TITLE 49, UNITED STATES CODE

Public Law 97-449

AN ACT To revise, codify, and enact without substantive change certain general and permanent laws related to transportation as subtitle I and chapter 31 of subtitle II of title 49, United States Code, "Transportation".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SUBTITLE I AND CHAPTER 31 OF SUBTITLE II OF TITLE 49, UNITED STATES CODE

SECTION 1. (a) Certain general and permanent laws of the United States, related to transportation, are revised, codified, and enacted by subsection (b) of this section without substantive change as subtitle I and chapter 31 of subtitle II of title 49, United States Code, "Transportation". Those laws may be cited as "49 U.S.C. § ———."

(b) Title 49, United States Code, is amended by striking out the table of subtitles at the beginning of the title and substituting the following new table of subtitles and subtitles I and II:

TITLE 49—TRANSPORTATION

SUBTITLE	Sec.
I. DEPARTMENT OF TRANSPORTATION.....	101
II. TRANSPORTATION PROGRAMS.....	3101
III. [RESERVED—AIR TRANSPORTATION].....	
IV. INTERSTATE COMMERCE.....	10101
V. [RESERVED—MISCELLANEOUS].....	

SUBTITLE I—DEPARTMENT OF TRANSPORTATION

CHAPTER	Sec.
1. ORGANIZATION.....	101
3. GENERAL DUTIES AND POWERS.....	301
5. SPECIAL AUTHORITY.....	501

CHAPTER 1—ORGANIZATION

Sec.
101. Purpose.
102. Department of Transportation.
103. Federal Railroad Administration.
104. Federal Highway Administration.
105. National Highway Traffic Safety Administration.
106. Federal Aviation Administration.
107. Urban Mass Transportation Administration.
108. Coast Guard.

109. Maritime Administration.

110. St. Lawrence Seaway Development Corporation.

§ 101. Purpose

(a) The national objectives of general welfare, economic growth and stability, and security of the United States require the development of transportation policies and programs that contribute to providing fast, safe, efficient, and convenient transportation at the lowest cost consistent with those and other national objectives, including the efficient use and conservation of the resources of the United States.

(b) A Department of Transportation is necessary in the public interest and to—

(1) ensure the coordinated and effective administration of the transportation programs of the United States Government;

(2) make easier the development and improvement of coordinated transportation service to be provided by private enterprise to the greatest extent feasible;

(3) encourage cooperation of Federal, State, and local governments, carriers, labor, and other interested persons to achieve transportation objectives;

(4) stimulate technological advances in transportation;

(5) provide general leadership in identifying and solving transportation problems; and

(6) develop and recommend to the President and Congress transportation policies and programs to achieve transportation objectives considering the needs of the public, users, carriers, industry, labor, and national defense.

§ 102. Department of Transportation

(a) The Department of Transportation is an executive department of the United States Government at the seat of Government.

(b) The head of the Department is the Secretary of Transportation. The Secretary is appointed by the President, by and with the advice and consent of the Senate.

(c) The Department has a Deputy Secretary of Transportation appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary—

(1) shall carry out duties and powers prescribed by the Secretary; and

(2) acts for the Secretary when the Secretary is absent or unable to serve or when the office of Secretary is vacant.

(d) The Department has an Associate Deputy Secretary appointed by the President, by and with the advice and consent of the Senate. The Associate Deputy Secretary shall carry out powers and duties prescribed by the Secretary.

(e) The Department has 4 Assistant Secretaries and a General Counsel appointed by the President, by and with the advice and consent of the Senate. The Department also has an Assistant Secretary of Transportation for Administration appointed in the competitive service by the Secretary, with the approval of the President. They shall carry out duties and powers prescribed by the Secretary. An Assistant Secretary or the General Counsel, in the order prescribed by the Secretary, acts for the Secretary when the Secre-

tary and the Deputy Secretary are absent or unable to serve, or when the offices of the Secretary and Deputy Secretary are vacant.

(e)¹ The Department shall have a seal that shall be judicially recognized.

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§ 106. Federal Aviation Administration

(a) The Federal Aviation Administration is an administration in the Department of Transportation.

(b) The head of the Administration is the Administrator. The Administration has a Deputy Administrator. They are appointed by the President, by and with the advice and consent of the Senate. When making an appointment, the President shall consider the fitness of the individual to carry out efficiently the duties and powers of the office. The Administrator reports directly to the Secretary of Transportation.

(c) the Administrator must—

(1) be a citizen of the United States;

(2) be a civilian; and

(3) have experience in a field directly related to aviation.

(d)(1) The Deputy Administrator must be a citizen of the United States and have experience in a field directly related to aviation. An officer on active duty in an armed force may be appointed as Deputy Administrator. However, if the Administrator is a former regular officer of an armed force, the Deputy Administrator may not be an officer on active duty in an armed force, a retired regular officer of an armed force, or a former regular officer of an armed force.

(2) An officer on active duty or a retired officer serving as Deputy Administrator is entitled to hold a rank and grade not lower than that held when appointed as Deputy Administrator. The Deputy Administrator may elect to receive (A) the pay provided by law for the Deputy Administrator, or (B) the pay and allowances or the retired pay of the military grade held. If the Deputy Administrator elects to receive the military pay and allowances or retired pay, the Administration shall reimburse the appropriate military department from funds available for the expenses of the Administration.

(3) The appointment and service of a member of the armed forces as a Deputy Administrator does not affect the status, office, rank, or grade held by that member, or a right or benefit arising from the status, office, rank, or grade. The Secretary of a military department does not control the member when the member is carrying out duties and powers of the Deputy Administrator.

(e) The Administrator and the Deputy Administrator may not have a pecuniary interest in, or own stock in or bonds of, an aeronautical enterprise, or engage in another business, vocation, or employment.

(f) The Secretary shall carry out the duties and powers, and controls the personnel and activities, of the Administration. The Secretary may not submit decisions for the approval of, nor be bound by

¹ Section 26(a) of P.L. 98-557 redesignated (d) as (e), but did not redesignate (e) as (f).

the decisions or recommendations of, a committee, board, or organization established by executive order.

(g) The Administrator shall carry out—

(1) duties and powers of the Secretary related to aviation safety (except those related to transportation, packaging, marking, or description of hazardous materials) and vested in the Secretary by section 308(b) of this title and sections 306-309, 312-314, 1101, 1105, and 1111 and titles VI, VII, IX, and XII of the Federal Aviation Act of 1958 (49 App. U.S.C. 1347-1350, 1353-1355, 1421 et seq., 1441 et seq., 1471 et seq., 1501, 1505, 1511, and 1521 et seq.); and

(2) additional duties and powers prescribed by the Secretary.

(h) Section 103 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1303) applies to duties and powers specified in subsection (g)(1) of this section. Any of those duties and powers may be transferred to another part of the Department only when specifically provided by law or a reorganization plan submitted under chapter 9 of title 5. A decision of the Administrator in carrying out those duties or powers is administratively final.

(i) The Deputy Administrator shall carry out duties and powers prescribed by the Administrator. The Deputy Administrator acts for the Administrator when the Administrator is absent or unable to serve, or when the office of the Administrator is vacant.

(j) There is established within the Federal Aviation Administration an institute to conduct civil aeromedical research under section 312(e) of the Federal Aviation Act of 1958. Such institute shall be known as the "Civil Aeromedical Institute". Research conducted by the institute should take appropriate advantage of capabilities of other government agencies, universities, or the private sector.

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CHAPTER 3—GENERAL DUTIES AND POWERS

SUBCHAPTER I—DUTIES OF THE SECRETARY OF TRANSPORTATION

Sec.

301. Leadership, consultation, and cooperation.

302. Policy standards for transportation.

303. Policy on lands, wildlife and waterfowl refuges, and historic sites.

304. Joint activities with the Secretary of Housing and Urban Development.

305. Transportation investment standards and criteria.

306. Prohibited discrimination.

307. Safety information and intervention in Interstate Commerce Commission proceedings.

308. Reports.

SUBCHAPTER II—ADMINISTRATIVE

321. Definitions.

322. General powers.

323. Personnel.

324. Members of the armed forces.

325. Advisory committees.

326. Gifts.

327. Administrative working capital fund.

328. Transportation Systems Center working capital fund.

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330. Research contracts.

331. Service, supplies, and facilities at remote places.

332. Minority Resource Center.

333. Responsibility for rail transportation unification and coordination projects.

334. Limit on aviation charges.

335. Authorization of appropriations.

SUBCHAPTER I—DUTIES OF THE SECRETARY OF TRANSPORTATION

§ 301. Leadership, consultation, and cooperation

The Secretary of Transportation shall—

(1) under the direction of the President, exercise leadership in transportation matters, including those matters affecting national defense and those matters involving national or regional emergencies;

(2) provide leadership in the development of transportation policies and programs, and make recommendations to the President and Congress for their consideration and implementation;

(3) promote and undertake the development, collection, and dissemination of technological, statistical, economic, and other information relevant to domestic and international transportation;

(4) consult and cooperate with the Secretary of Labor in compiling information regarding the status of labor-management contracts and other labor-management problems and in promoting industrial harmony and stable employment conditions in all modes of transportation;

(5) promote and undertake research and development related to transportation, including noise abatement, with particular attention to aircraft noise;

(6) consult with the heads of other departments, agencies, and instrumentalities of the United States Government on the transportation requirements of the Government, including encouraging them to establish and observe policies consistent with maintaining a coordinated transportation system in procuring transportation or in operating their own transport services; and

(7) consult and cooperate with State and local governments, carriers, labor, and other interested persons, including, when appropriate, holding informal public hearings.

§ 302. Policy standards for transportation

(a) The Secretary of Transportation is governed by the transportation policy of sections 10101 and 10101a of this title in addition to other laws.

(b) Subtitle I and chapter 31 of subtitle II of this title and the Department of Transportation Act (49 App. U.S.C. 1651 et seq.) do not authorize, without appropriate action by Congress, the adoption, revision, or implementation of a transportation policy or investment standards or criteria.

(c) The Secretary shall consider the needs—

- (1) for effectiveness and safety in transportation systems; and
- (2) of national defense.

§ 303. Policy on lands, wildlife and waterfowl refuges, and historic sites

(a) It is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.

(b) The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States, in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of lands crossed by transportation activities or facilities.

(c) The Secretary may approve a transportation program or project (other than any project for a park road or parkway under section 204 of title 23) requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance, or land of a historic site of national, State, or local significance (as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge, or site) only if—

(1) there is no prudent and feasible alternative to using that land; and

(2) the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.

§ 304. Joint activities with the Secretary of Housing and Urban Development

(a) The Secretary of Transportation and the Secretary of Housing and Urban Development shall—

(1) consult and exchange information about their respective transportation policies and activities;

(2) carry out joint planning, research, and other activities;

(3) coordinate assistance for local transportation projects; and

(4) jointly study methods by which policies and programs of the United States Government can ensure that urban transportation systems most effectively serve both transportation needs of the United States and the comprehensively planned development of urban areas.

(b) The Secretaries shall report on April 1 of each year to the President, for submission to Congress, on their studies and other activities under this section, including legislative recommendations they consider desirable.

§ 305. Transportation investment standards and criteria

(a) Subject to sections 301-304 of this title, the Secretary of Transportation shall develop standards and criteria to formulate and economically evaluate all proposals for investing amounts of the United States Government in transportation facilities and equipment. Based on experience, the Secretary shall revise the standards and criteria. When approved by Congress, the Secretary

shall prescribe standards and criteria developed or revised under this subsection. This subsection does not apply to—

(1) the acquisition of transportation facilities or equipment by a department, agency, or instrumentality of the Government to provide transportation for its use;

(2) an inter-oceanic canal located outside the 48 contiguous States;

(3) defense features included at the direction of the Department of Defense in designing and constructing civil air, sea, or land transportation;

(4) foreign assistance programs;

(5) water resources projects; or

(6) grant-in-aid programs authorized by law.

(b) A department, agency, or instrumentality of the Government preparing a survey, plan, or report that includes a proposal about which the Secretary has prescribed standards and criteria under subsection (a) of this section shall—

(1) prepare the survey, plan, or report under those standards and criteria and on the basis of information provided by the Secretary on the—

(A) projected growth of transportation needs and traffic in the affected area;

(B) the relative efficiency of various modes of transportation;

(C) the available transportation services in the area; and

(D) the general effect of the proposed investment on existing modes of transportation and on the regional and national economy;

(2) coordinate the survey, plan, or report—

(A) with the Secretary and include the views and comments of the Secretary; and

(B) as appropriate, with other departments, agencies, and instrumentalities of the Government, States, and local governments, and include their views and comments; and

(3) send the survey, plan, or report to the President for disposition under law and procedure established by the President.

* * * * *

§ 308. Reports

(a) As soon as practicable after the end of each fiscal year, the Secretary of Transportation shall report to the President, for submission to Congress, on the activities of the Department of Transportation during the prior fiscal year.

(b) The Secretary shall submit to the President and Congress each year a report on the aviation activities of the Department. The report shall include—

(1) collected information the Secretary considers valuable in deciding questions about—

(A) the development and regulation of civil aeronautics;

(B) the use of airspace of the United States; and

(C) the improvement of the air navigation and traffic control system; and

- (2) recommendations for additional legislation and other action the Secretary considers necessary.
- (c) The Secretary shall submit to Congress each year a report on the conditions of the public ports of the United States, including the—
- (1) economic and technological development of the ports;
 - (2) extent to which the ports contribute to the national welfare and security; and
 - (3) factors that may impede the continued development of the ports.
- (d) By the 90th day after the end of each fiscal year, the Secretary shall submit to Congress a report listing the specific assistance provided by the United States Government to the railroad industry during that fiscal year. The report shall include—
- (1) the reasons for each Government loan or grant and explain the way in which the loan or grant contributed to the overall goal of providing a safe and efficient transportation system;
 - (2) information on the financial condition of each railroad having a loan guaranteed under the Emergency Rail Services Act of 1970 (45 U.S.C. 661 et seq.) throughout the duration of the loan; and
 - (3) information on the past and anticipated financial condition and operations during the fiscal year of the Railroad Rehabilitation and Improvement Fund established under section 502(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(a)) and of the Obligation Guarantee Fund established under section 511(b) of that Act (45 U.S.C. 831(b)).
- (e)(1) The Secretary shall submit a report to Congress in January of each even-numbered year of estimates by the Secretary on the current performance and condition of public mass transportation systems with recommendations for necessary administrative or legislative changes.
- (2) In reporting to Congress under this subsection, the Secretary shall prepare a complete assessment of public transportation facilities in the United States. The Secretary also shall assess future needs for those facilities and estimate future capital requirements and operation and maintenance requirements for one-year, 5-year, and 10-year periods at specified levels of service.

SUBCHAPTER II—ADMINISTRATIVE

§ 321. Definitions

In this subchapter, “aeronautics”, “air commerce”, and “air navigation facility” have the same meanings given those terms in section 101(2), (4), and (8) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301(2), (4), (8)), respectively.

§ 322. General powers

(a) The Secretary of Transportation may prescribe regulations to carry out the duties and powers of the Secretary. An officer of the Department of Transportation may prescribe regulations to carry out the duties and powers of the officer.

(b) The Secretary may delegate, and authorize successive delegations of, duties and powers of the Secretary to an officer or employee of the Department. An officer of the Department may delegate, and authorize successive delegations of, duties and powers of the officer to another officer or employee of the Department. However, the duties and powers specified in sections 103(c)(1), 104(c)(1), and 106(g)(1) of this title may not be delegated to an officer or employee outside the Administration concerned.

(c) On a reimbursable basis when appropriate, the Secretary may, in carrying out aviation duties and powers—

(1) use the available services, equipment, personnel, and facilities of other civilian or military departments, agencies, and instrumentalities of the United States Government, with their consent;

(2) cooperate with those departments, agencies, and instrumentalities in establishing and using aviation services, equipment, and facilities of the Department; and

(3) confer and cooperate with, and use the services, records, and facilities of, State, territorial, municipal, and other agencies.

(d) The Secretary may make expenditures to carry out aviation duties and powers, including expenditures for—

(1) rent and personal services;

(2) travel expenses;

(3) office furniture, equipment, supplies, lawbooks, newspapers, periodicals, and reference books, including exchanges;

(4) printing and binding;

(5) membership in and cooperation with domestic or foreign organizations related to, or a part of, the civil aeronautics industry or the art of aeronautics;

(6) payment of allowances and other benefits to employees stationed in foreign countries to the same extent authorized for members of the Foreign Service of comparable grade;

(7) investigations and studies about aeronautics; and

(8) acquiring, exchanging, operating, and maintaining passenger-carrying aircraft and automobiles and other property.

(e) The Secretary may negotiate, without advertising, the purchase of technical or special property related to air navigation when the Secretary decides that—

(1) making the property would require a substantial initial investment or an extended period of preparation; and

(2) procurement by advertising would likely result in additional cost to the Government by duplication of investment or would result in duplication of necessary preparation that would unreasonably delay procuring the property.

§ 323. Personnel

(a) The Secretary of Transportation may appoint and fix the pay of officers and employees of the Department of Transportation and may prescribe their duties and powers.

(b) The Secretary may procure services under section 3109 of title 5. However, an individual may be paid not more than \$100 a day for services.

§ 324. Members of the armed forces**(a) The Secretary of Transportation—**

(1) to ensure that national defense interests are safeguarded properly and that the Secretary is advised properly about the needs and special problems of the armed forces, shall provide for participation of members of the armed forces in carrying out the duties and powers of the Secretary related to the regulation and protection of air traffic, including providing for, and research and development of, air navigation facilities, and the allocation of airspace; and

(2) may provide for participation of members of the armed forces in carrying out other duties and powers of the Secretary.

(b) A member of the Coast Guard on active duty may be appointed, detailed, or assigned to a position in the Department of Transportation, except the position of Secretary, Deputy Secretary, or Assistant Secretary for Administration. A retired member of the Coast Guard may be appointed, detailed, or assigned to a position in the Department.

(c) The Secretary of Transportation and the Secretary of a military department may make cooperative agreements, including agreements on reimbursement as may be considered appropriate by the Secretaries, under which a member of the armed forces may be appointed, detailed, or assigned to the Department of Transportation under this section. The Secretary of Transportation shall send a report each year to the appropriate committees of Congress on agreements made to carry out subsection (a)(2) of this section, including the number, rank, and position of each member appointed, detailed, or assigned under those agreements.

(d) The Secretary of a military department does not control the duties and powers of a member of the armed forces appointed, detailed, or assigned under this section when those duties and powers pertain to the Department of Transportation. A member of the armed forces appointed, detailed, or assigned under subsection (a)(2) of this section may not be charged against a statutory limitation on grades or strengths of the armed forces. The appointment, detail, or assignment and service of a member under this section to a position in the Department of Transportation does not affect the status, office, rank, or grade held by that member, or a right or benefit arising from that status, office, rank, or grade.

§ 325. Advisory committees

(a) Without regard to the provisions of title 5 governing appointment in the competitive service, the Secretary of Transportation may appoint advisory committees to consult with and advise the Secretary in carrying out the duties and powers of the Secretary.

(b) While attending a committee meeting or otherwise serving at the request of the Secretary, a member of an advisory committee may be paid not more than \$100 a day. A member is entitled to reimbursement for expenses under section 5703 of title 5. This subsection does not apply to individuals regularly employed by the United States Government.

(c) A member of an advisory committee advising the Secretary in carrying out aviation duties and powers may serve for not more than 100 days in a calendar year.

§ 326. Gifts

(a) The Secretary of Transportation may accept and use conditional or unconditional gifts of property for the Department of Transportation. The Secretary may accept a gift of services in carrying out aviation duties and powers. Property accepted under this section and proceeds from that property must be used, as nearly as possible, under the terms of the gift.

(b) The Department has a fund in the Treasury. Disbursements from the fund are made on order of the Secretary. The fund consists of—

(1) gifts of money;

(2) income from property accepted under this section and proceeds from the sale of that property; and

(3) income from securities under subsection (c) of this section.

(c) On request of the Secretary of Transportation, the Secretary of the Treasury may invest and reinvest amounts in the fund in securities of, or in securities whose principal and interest is guaranteed by, the United States Government.

(d) Property accepted under this section is a gift to or for the use of the Government under the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.).

§ 327. Administrative working capital fund

(a) The Department of Transportation has an administrative working capital fund. Amounts in the fund are available for expenses of operating and maintaining common administrative services the Secretary of Transportation decides are desirable for the efficiency and economy of the Department. The services may include—

(1) a central supply service for stationery and other supplies and equipment through which adequate stocks may be maintained to meet the requirements of the Department;

(2) central messenger, mail, telephone, and other communications services;

(3) office space;

(4) central services for document reproduction, and for graphics and visual aids; and

(5) a central library service.

(b) Amounts in the fund are available without regard to fiscal year limitation. Amounts may be appropriated to the fund.

(c) The fund consists of—

(1) amounts appropriated to the fund;

(2) the reasonable value of stocks of supplies, equipment, and other assets and inventories on order that the Secretary transfers to the fund, less the related liabilities and unpaid obligations;

(3) amounts received from the sale or exchange of property; and

(4) payments received for loss or damage to property of the fund.

(d) The fund shall be reimbursed, in advance, from amounts available to the Department or from other sources, for supplies and services at rates that will approximate the expenses of operation, including the accrual of annual leave and the depreciation of equipment. Amounts in the fund, in excess of amounts transferred or appropriated to maintain the fund, shall be deposited in the Treasury as miscellaneous receipts. All assets, liabilities, and prior losses are considered in determining the amount of the excess.

§ 328. Transportation Systems Center working capital fund

(a) The Department of Transportation has a Transportation Systems Center working capital fund. Amounts in the fund are available for financing the activities of the Center, including research, development, testing, evaluation, analysis, and related activities the Secretary of Transportation approves, for the Department, other agencies, State and local governments, other public authorities, private organizations, and foreign countries.

(b) Amounts in the fund are available without regard to fiscal year limitation. Amounts may be appropriated to the fund.

(c) The capital of the fund consists of—

(1) amounts appropriated to the fund;

(2) net assets of the Center as of October 1, 1980, including unexpended advances made to the Center for which valid obligations were incurred before October 1, 1980;

(3) the reasonable value of property and other assets transferred to the fund after September 30, 1980, less the related liabilities and unpaid obligations; and

(4) the reasonable value of property and other assets donated to the fund.

(d) The fund shall be reimbursed or credited with—

(1) advance payments from applicable funds or appropriations of the Department and other agencies, and with advance payments from other sources, the Secretary authorizes, for—

(A) services at rates that will recover the expenses of operation, including the accrual of annual leave and overhead; and

(B) acquiring property and equipment under regulations the Secretary prescribes; and

(2) receipts from the sale or exchange of property or in payment for loss or damage of property held by the fund.

(e) The Secretary shall deposit at the end of each fiscal year, in the Treasury as miscellaneous receipts, amounts accruing in the fund that the Secretary decides are in excess of the needs of the fund.

§ 329. Transportation information

(a) The Secretary of Transportation may collect and collate transportation information the Secretary decides will contribute to the improvement of the transportation system of the United States. To the greatest practical extent, the Secretary shall use information available from departments, agencies, and instrumentalities of the

United States Government and other sources. To the extent practical, the Secretary shall make available to other Government departments, agencies, and instrumentalities and to the public the information collected under this subsection.

(b) The Secretary shall—

(1) collect and disseminate information on civil aeronautics (other than that collected and disseminated by the National Transportation Safety Board under title VII of the Federal Aviation Act of 1958 (49 U.S.C. 1441 et seq.) including at a minimum, information on (A) the origin and destination of passengers in interstate and overseas air transportation (as those terms are used in such Act), and (B) the number of passengers traveling by air between any two points in interstate and overseas air transportation; except that in no case shall the Secretary require an air carrier to provide information on the number of passengers or the amount of cargo on a specific flight if the flight and the flight number under which such flight operates are used solely for interstate or overseas air transportation and are not used for providing essential air transportation under section 419 of the Federal Aviation Act of 1958;

(2) study the possibilities of developing air commerce and the aeronautical industry; and

(3) exchange information on civil aeronautics with governments of foreign countries through appropriate departments, agencies, and instrumentalities of the Government.

(c)(1) On the written request of a person, a State, territory, or possession of the United States, or a political subdivision of a State, territory, or possession, the Secretary may—

(A) make special statistical studies on foreign and domestic transportation;

(B) make special studies on other matters related to duties and powers of the Secretary;

(C) prepare, from records of the Department of Transportation, special statistical compilations; and

(D) provide transcripts of studies, tables, and other records of the Department.

(2) The person or governmental authority requesting information under paragraph (1) of this subsection must pay the actual cost of preparing the information. Payments shall be deposited in the Treasury in an account that the Secretary shall administer. The Secretary may use amounts in the account for the ordinary expenses incidental to getting and providing the information.

(d) To assist in carrying out duties and powers under the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.), the Secretary of Transportation shall maintain separate cooperative agreements with the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration for the timely exchange of information on their programs, policies, and requirements directly related to carrying out that Act.

§ 330. Research contracts

(a) The Secretary of Transportation may make contracts with educational institutions, public and private agencies and organizations, and persons for scientific or technological research into a problem related to programs carried out by the Secretary. Before making a contract, the Secretary must require the institution, agency, organization, or person to show that it is able to carry out the contract.

(b) In carrying out this section, the Secretary shall—

(1) give advice and assistance the Secretary believes will best carry out the duties and powers of the Secretary;

(2) participate in coordinating all research started under this section;

(3) indicate the lines of inquiry most important to the Secretary; and

(4) encourage and assist in establishing and maintaining cooperation by and between contractors and between them and other research organizations, the Department of Transportation, and other departments, agencies, and instrumentalities of the United States Government.

(c) The Secretary may distribute publications containing information the Secretary considers relevant to research carried out under this section.

§ 331. Service, supplies, and facilities at remote places

(a) When necessary and not otherwise available, the Secretary of Transportation may provide for, construct, or maintain the following for officers and employees of the Department of Transportation and their dependents stationed in remote places:

(1) emergency medical services and supplies.

(2) food and other subsistence supplies.

(3) messing facilities.

(4) motion picture equipment and film for recreation and training.

(5) living and working quarters and facilities.

(6) reimbursement for food, clothing, medicine, and other supplies provided by an officer or employee in an emergency for the temporary relief of individuals in distress.

(b) The Secretary shall prescribe reasonable charges for services, supplies, and facilities provided under subsection (a) (1), (2), and (3) of this section. Amounts received under this subsection shall be credited to the appropriation from which the expenditure was made.

(c) When appropriations for a fiscal year for aviation duties and powers have not been made before June 1 immediately before the beginning of the fiscal year, the Secretary may designate an officer, and authorize that officer, to incur obligations to buy and transport supplies to carry out those duties and powers at installations outside the 48 contiguous States and the District of Columbia. The amount obligated under this subsection in a fiscal year may be not more than 75 percent of the amount available for buying and transporting supplies to those installations for the then current

fiscal year. Payment of obligations under this subsection shall be made from appropriations for the next fiscal year when available.

* * * * *

§ 334. Limit on aviation charges

The Secretary of Transportation may impose a charge for an approval, test, authorization, certificate, permit, registration, transfer, or rating related to aviation that has not been approved by Congress only when—

(1) the charge—

(A) was in effect on January 1, 1973, and

(B) is not more than the charge that was in effect on such date, adjusted in proportion to changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor between January 1, 1973, and the date the charge is imposed; or

(2) the charge is a fee established and collected in accordance with section 313(f) of the Federal Aviation Act of 1958.

However, this section does not apply to a charge for a test, authorization, certificate, permit, or rating related to an airman or repair station administered or issued outside of the United States, as defined in section 101(41) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301(41)).



LAWS RELATING TO INTERNATIONAL AVIATION



INTERNATIONAL AVIATION FACILITIES ACT

62 Stat. 450; 49 U.S.C. App. 1151 et seq.

AN ACT To encourage the development of an international system adapted to the needs of the foreign commerce of the United States, of the postal service, and of the national defense, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "International Aviation Facilities Act".¹

DEFINITIONS

SEC. 2. For the purposes of this Act:

* * * * *

(2) The term "airport property" means any property, real or personal, or any interest therein, used or useful, directly or indirectly, in connection with the administration, operation, or maintenance of an airport, including but not limited to (1) land; (2) runways, strips, taxiways, and parking aprons; (3) buildings, structures, improvements, and facilities, whether or not used in connection with the landing and take-off of aircraft; and (4) equipment (including parts and components thereof), furniture, vehicles, and supplies.

(3) The term "airway property" means any property, real or personal, or any interest therein, used or useful, directly or indirectly, in connection with the administration, operation, or maintenance of any ground installation, facility, or equipment (including parts and components thereof) necessary or desirable for the orderly and safe operation of air traffic, including but not limited to air navigation, air-traffic control, airway communications, and meteorological facilities.

(4) The term "foreign territory" means any area of land or water over which no nation or a nation other than the United States exercises the incidents of sovereignty (including territory of undetermined sovereignty and the high seas), any area of land or water temporarily under military occupation by the United States, and any area of land or water occupied or administered by the United States or any other nation under any international agreement. [49 U.S.C. App. 1151]

¹ References in this Act to the Air Coordinating Committee have been deleted or changed to the Secretary of Transportation. Ex Ord. No. 10883; Public Law 89-670, § 6(c)(1).

References in this Act to the Administrator of Civil Aeronautics have been changed to the Secretary of Transportation. Public Law 85-726, § 1403; Public Law 89-670, § 6(c)(1).

References in this Act to the Weather Bureau have been changed to the Department of Commerce. Reorg. Plan No. 2 of 1965.

ESTABLISHMENT AND OPERATION, IN FOREIGN TERRITORY, OF FACILITIES
RELATED TO AVIATION

SEC. 3. Subject to concurrence of the Secretary of State, and with due regard for the objectives of the International Civil Aviation Organization, the Secretary of Transportation and the Secretary of Commerce, within their respective fields, are authorized by contract or otherwise, to acquire, establish, and construct airport property and airway property in foreign territory: *Provided, however,* That, except in the case of airport property transferred under section 8, no airport (as defined in section 101 of the Federal Aviation Act of 1958) may be acquired, established, or constructed under authority of this section unless funds for such purpose have been specifically appropriated by the Congress. [49 U.S.C. App. 1152]

TRAINING OF FOREIGN NATIONALS IN AERONAUTICAL AND RELATED
SUBJECTS

SEC. 4. Subject to the concurrence of the Secretary of State, the Secretary of Transportation and the Secretary of Commerce, within their respective fields, are authorized within or outside the United States to train foreign nationals directly, or in conjunction with any other United States Government agency, or through any United States public or private agency (including any State or municipal educational institution), or through any international organization, in aeronautical and related subjects essential to the orderly and safe operation of civil aircraft. [49 U.S.C. App. 1153]

ACCEPTANCE OF FUNDS FOR FACILITIES SUPPLIED OR SERVICES PER-
FORMED FOR A FOREIGN GOVERNMENT OR AN INTERNATIONAL ORGA-
NIZATION

SEC. 5. The Secretary of Transportation and the Secretary of Commerce, respectively, are authorized to accept, on behalf of the United States, funds from any foreign government or from any international organization as payment for any facilities supplied or services performed for such government or international organization by the Secretary of Transportation or the Secretary of Commerce, either directly or indirectly, under authority of this Act or the Civil Aeronautics Act of 1938, as amended, including the operation of airport property and airway property in such countries, the training of foreign nationals, the rendering of technical assistance and advice to such countries, and the performance of other similar services. Funds so received may be credited to (A) to appropriations current at the time the expenditures are to be or have been paid, (B) to appropriations current at the time such amounts are received, or (C) in part as provided under clause (A) and in part as provided under clause (B). [49 U.S.C. App. 1154]

TRANSFER OF AIRPORT PROPERTY OR AIRWAY PROPERTY TO A FOREIGN
GOVERNMENT OF AN INTERNATIONAL ORGANIZATION

SEC. 6. The Secretary of Transportation or the Secretary of Commerce, as the case may be, upon request of the foreign government involved or of any international organization, may transfer any airport property or airway property operated and maintained by him

within foreign territory, pursuant to the provisions of this Act, to the foreign government involved or to any international organization. The Secretary of Transportation or the Secretary of Commerce, as the case may be, is authorized to make such transfer upon such terms and conditions as he deems proper, including provision for receiving, on behalf of the United States, such payment or other consideration for the property so transferred as may be agreed upon through negotiations with the foreign government or international organization involved. [49 U.S.C. App. 1155]

FACILITIES, SERVICE, AND PROPERTY IN THE CANAL ZONE AND IN THE
REPUBLIC OF PANAMA

SEC. 7. (a) Subject to the approval of the Secretary of Defense, the Secretary of Transportation is authorized to provide air navigation, communications, and air traffic control facilities and services in the Canal Zone and the Republic of Panama and to do all things necessary in connection with the operation and maintenance thereof.

(b) In exercising and performing his powers and duties under this section, the Secretary of Transportation shall do so consistently with any obligation assumed by the United States in any treaty, convention, or agreement that may be in force between the United States and the Republic of Panama.

(c) Any department of the Department of Defense is authorized in its discretion to transfer without charge therefor to the Secretary of Transportation any airport property or airway property or other real or personal property which (1) is located in the Canal Zone or the Republic of Panama, and (2) is determined by the Secretary of Transportation to be, or likely to become, useful in carrying out the purposes of this Act.

(d) The authority conferred by this section may be exercised without regard to sections 3 and 8(a) of this Act. [49 U.S.C. App. 1156]

TRANSFER OF CERTAIN PROPERTY FROM THE DEPARTMENT OF DEFENSE
TO THE SECRETARY OF TRANSPORTATION OR THE SECRETARY OF COM-
MERCE

SEC. 8. (a) When considered consistent with the needs of national defense, and subject to such conditions, if any, as may be agreed upon in specific cases between the parties, any department of the Department of Defense is authorized to transfer at its discretion to the Secretary of Transportation, without charge therefor, airport property and airway property, exclusive of meteorological facilities, installed by or in the possession of such department in territory (including Alaska) outside the continental limits of the United States, which such department has found to be no longer required exclusively for military purposes and which in the opinion of the Secretary of Transportation are, or are likely to become, necessary for carrying out the purposes of this Act.

(b) When considered consistent with the needs of national defense, and subject to such conditions, if any, as may be agreed upon in specific cases between the parties, any department of the Department of Defense is authorized to transfer at its discretion to

the Secretary of Commerce without charge therefor, meteorological facilities installed by or in the possession of such department in territory (including Alaska) outside the continental limits of the United States, which such department has found to be no longer required exclusively for military purposes, and which, in the opinion of the Secretary of Commerce are, or are likely to become, necessary for carrying out the purposes of this Act.

(c) All property transferred to the Department of Commerce under the provision of Executive Order 9709, dated March 29, 1946, and Executive Order 9797, dated November 6, 1946, and which is in the possession of the Department of Commerce on the date of the enactment of this Act shall be considered as property transferred pursuant to this section. [49 U.S.C. App. 1157]

AUTHORITY TO RETAKE PROPERTY TRANSFERRED UNDER SECTION 7 OR 8

SEC. 9. When necessary to meet military requirements, as determined by the Secretary of the department which made the transfer, such department is authorized immediately to retake any property transferred under section 7 or section 8, together with any improvements or additions made thereto: *Provided*, That the Secretary of such department, upon the recommendation of the Secretary of Transportation or the Secretary of Commerce, as the case may be, is authorized in any case to waive any right or privilege conferred or reserved by this section. In the event property is retaken which incorporates improvements or additions not made at Government expense, reasonable compensation shall be paid to the person or persons who made such improvements, or additions, or to their successors in interest. The Secretary of the department which made the transfer, or his duly authorized representative, shall determine, for purposes of this section, what is reasonable compensation for such improvements or additions. [49 U.S.C. App. 1158]

POWERS OF SECRETARY OF TRANSPORTATION AND SECRETARY OF COMMERCE WITH RESPECT TO CERTAIN AIRPORT PROPERTY AND AIRWAY PROPERTY

SEC. 10. (a) With regard to airport property and airway property in territory (including Alaska) outside the continental limits of the United States which he has acquired pursuant to this Act or any other provision of law, the Secretary of Transportation is empowered and directed to do and perform, by contract or otherwise, all acts and things necessary or incident to their consolidation, operation, protection, maintenance, improvement, and administration, including but not limited to the power (1) to adapt, from time to time, such properties to the needs of civil aeronautics by construction, installation, reengineering, relocation, or otherwise; (2) to make and amend such reasonable rules and regulations as he may deem necessary to the proper exercise of the powers granted by this section; (3) to lease under such conditions as he may deem proper and for such periods as may be desirable (not to exceed twenty years) space or property for purposes essential or appropriate to their consolidation, operation, protection, and administration under this Act; (4) to contract for, or to provide directly for, the sale of fuel, oil, equipment, food and supplies, hotel accommoda-

tions, and other facilities and services necessary or desirable for the operation and administration of such properties; (5) to make just and reasonable charges for aeronautical services (including but not limited to landing fees and fees for the use of communication services); and (6) to acquire, by purchase or otherwise, real or personal property, or interests therein, which he may consider necessary for the purposes of this section. Any person who knowingly and willfully violates any rule or regulation issued by the Secretary of Transportation under clause (2) of this section, if such violation is committed in any area under the civil jurisdiction of the United States, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$500 or to imprisonment not exceeding six months, or to both such fine and imprisonment.

(b) With regard to meteorological facilities in territory (including Alaska) outside the continental limits of the United States which he has acquired pursuant to this Act or any other provision of law, the Secretary of Commerce is vested with all powers to consolidate, operate, protect, maintain, improve, and administer granted the Secretary of Transportation by subsection (a) with respect to facilities the latter has acquired.

(c) All funds received under this section, as a result of direct sale or charge by the Secretary of Transportation or the Secretary of Commerce and which, in the judgment of the Secretary of Transportation or the Secretary of Commerce, as the case may be, are equivalent to the cost, including handling charges, of the fuel, oil, equipment, food, supplies, services, shelter, or other assistance or services sold or furnished shall be credited to the appropriation from which the cost thereof was paid, and the balance, if any, shall be credited to miscellaneous receipts.

(d) The provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), shall not apply to any of the leases or contracts made by the Secretary of Transportation or the Secretary of Commerce pursuant to the provisions of this Act. [49 U.S.C. App. 1159]

SEC. 11. The Secretary of Transportation shall survey the charges made to air carriers by foreign governments or other foreign entities for the use of airport property or airway property in foreign air transportation. If the Secretary of Transportation determines at any time that such charges unreasonably exceed comparable charges for furnishing such airport property or airway property in the United States or are otherwise discriminatory, he shall submit a report on such cases promptly to the Secretary of State, and the Secretary of State, in collaboration with the Secretary of Transportation, shall promptly undertake negotiations with the foreign country involved to reduce such charges or eliminate such discriminations. If within a reasonable period such charges are not reduced or such discriminations eliminated through negotiations, the Secretary of State shall promptly report such instances to the Secretary of Transportation who shall determine compensating charges equal to such excessive or discriminatory charges. Such compensating charges shall, with the approval of the Secretary of State, be imposed on the foreign air carrier or carriers of the country con-

cerned by the Secretary of the Treasury as a condition to acceptance of the general declaration at the time of landing or takeoff of aircraft of such foreign air carrier or carriers. The amounts so collected shall accrue to an account established for that purpose by the Secretary of the Treasury. Payments shall be made from that account to air carriers in such amounts as shall be certified by the Secretary of Transportation in accordance with such regulations as he shall adopt to compensate such air carriers for excessive or discriminatory charges paid by them to the foreign countries involved. [49 U.S.C. App. 1159a]

UTILIZATION OF FACILITIES AND SERVICES OF OTHER GOVERNMENT AGENCIES

SEC. 12. The Secretary of Transportation and the Secretary of Commerce are authorized and directed, in carrying out the provisions of this Act, insofar as they find it practicable, to arrange for the use of appropriate facilities or services of other United States Government agencies, and to reimburse any such agency for such service out of funds appropriated to the Department of Transportation or the Department of Commerce, as the case may be, to the end that personnel and facilities of existing United States Government agencies shall be utilized to the fullest possible advantage and not be unnecessarily duplicated. Any agency of the United States Government receiving any such request is hereby authorized to furnish such facilities or to perform such services. [49 U.S.C. App. 1160]

AUTHORIZATION FOR APPROPRIATIONS

SEC. 13. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

FAIR COMPETITIVE PRACTICES

Public Law 93-623; 88 Stat. 2102; 49 U.S.C. App. 1159b

AN ACT To amend the Federal Aviation Act of 1958 to deal with discriminatory and unfair competitive practices in international air transportation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "International Air Transportation Fair Competitive Practices Act of 1974".

DISCRIMINATORY AND UNFAIR COMPETITIVE PRACTICES

SEC. 2. (a) United States air carriers operating in foreign air transportation perform services of vital importance to the foreign commerce of the United States including its balance of payments, to the Postal Service, and to the national defense. Such carriers have become subject to a variety of discriminatory and unfair competitive practices in their competition with foreign air carriers. The Department of State, the Department of the Treasury, the Department of Transportation, and other departments or agencies, therefore, each shall keep under review, to the extent of their respective functions, all forms of discrimination or unfair competitive practices to which United States air carriers are subject in providing foreign air transportation services and each shall take all appropriate actions within its jurisdiction to eliminate such forms of discrimination or unfair competitive practices found to exist.

(b)(1) Whenever the Secretary of Transportation, upon complaint or upon its own initiative, determines that a foreign government or instrumentality, including a foreign air carrier (A) engages in unjustifiable or unreasonable discriminatory, predatory, or anticompetitive practices against a United States air carrier or (B) imposes unjustifiable or unreasonable restrictions on access of a United States air carrier to foreign markets, the Secretary may take such action as it deems to be in the public interest to eliminate such practices or restrictions. Such actions may include, but are not limited to, the denial, transfer, alteration, modification, amendment, cancellation, suspension, limitation, or revocation of any foreign air carrier permit or tariff pursuant to the powers of the Secretary under the Federal Aviation Act of 1958.

(2) Any United States air carrier or any agency of the Government of the United States may file a complaint under this section with the Secretary of Transportation. The Secretary shall approve, deny, dismiss, set such complaint for hearing or investigation, or institute other proceedings proposing remedial action within 60

days after receipt of the complaint. The Secretary may extend the period for taking such action for an additional period or periods of up to 30 days each if the Secretary concludes that it is likely that the complaint can be satisfactorily resolved through negotiations with the foreign government or instrumentality during such additional period, but the aggregate period for taking action under this subsection may not exceed 90 days from receipt of the complaint. However, if on the last day of such 90-day period, the Secretary finds that—

(A) negotiations with the foreign government have progressed to a point that a satisfactory resolution of the complaint appears imminent;

(B) no United States air carrier has been subject to economic injury by the foreign government or an instrumentality of the foreign government (including a foreign air carrier) as a result of the filing of the complaint; and

(C) public interest requires additional time before the taking of action with respect to the complaint;

the Secretary may extend such 90-day period for not to exceed an additional 90 days.

(3) In considering any complaint, or in any proceedings under its own initiative, under this subsection, the Secretary shall—

(A) solicit the views of the Department of State, the Department of Commerce, and the Office of the United States Trade Representative; and

(B) provide any affected air carrier or foreign air carrier with reasonable notice and such opportunity to file written evidence and argument as is consistent with acting on the complaint within the time limits set forth in this subsection.

(4) Any action proposed by the Secretary pursuant to this section shall be transmitted to the President pursuant to section 801 of the Federal Aviation Act of 1958 (49 U.S.C. 1461).

(c) Each of these departments and agencies of Government shall request from Congress such additional legislation as may be deemed necessary at any time it is determined there is inadequate legal authority for dealing with any form of discrimination or unfair competitive practice found to exist.

(d) The Secretary of Transportation shall report annually to Congress on the actions that have been taken under subsection (a) and on the continuing program to eliminate discriminations and unfair competitive practices faced by United States carriers in foreign air transportation. The Secretaries of State and Treasury shall furnish to the Secretary of Transportation such information as may be necessary to prepare the report required by this subsection.

(e) Not later than the 30th day after taking action with respect to a complaint under this section, the Secretary of Transportation shall report to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on actions that have been taken under this section with respect to the complaint. [49 U.S.C. App. 1159b]

SELECTED PROVISIONS OF TITLE VIII OF THE TRADE ACT OF 1974

TITLE VIII—TARIFF TREATMENT OF PRODUCTS OF, AND OTHER SANCTIONS AGAINST, UNCOOPERATIVE MAJOR DRUG PRODUCING OR DRUG-TRANSIT COUNTRIES

SEC. 801. SHORT TITLE.

This title may be cited as the "Narcotics Control Trade Act".

SEC. 802. TARIFF TREATMENT OF PRODUCTS OF UNCOOPERATIVE MAJOR DRUG PRODUCING OR DRUG-TRANSIT COUNTRIES.

(a) **REQUIRED ACTION BY PRESIDENT.**—Subject to subsection (b), for every major drug producing country and every major drug-transit country, the President shall, on or after March 1, 1987, and March 1 of each succeeding year, to the extent considered necessary by the President to achieve the purposes of this title—

(1) deny to any or all of the products of that country tariff treatment under the Generalized System of Preferences, the Caribbean Basin Economic Recovery Act, or any other law providing preferential tariff treatment;

(2) apply to any or all of the dutiable products of that country an additional duty at a rate not to exceed 50 percent ad valorem or the specific rate equivalent;

(3) apply to one or more duty-free products of that country a duty at a rate not to exceed 50 percent ad valorem;

(4) take the steps described in subsection (d)(1) or (d)(2), or both, to curtail air transportation between the United States and that country;

(5) withdraw the personnel and resources of the United States from participation in any arrangement with that country for the pre-clearance of customs by visitors between the United States and that country; or

(6) take any combination of the actions described in paragraphs (1) through (5).

(b) **CERTIFICATIONS; CONGRESSIONAL ACTION.**—(1) Subsection (a) shall not apply with respect to a country if the President determines and so certifies to the Congress, at the time of the submission of the report required by section 481(e) of the Foreign Assistance Act of 1961, that during the previous year that country has cooperated fully with the United States, or has taken adequate steps on its own, in preventing narcotic and psychotropic drugs and other controlled substances produced or processed, in whole or in part, in such country or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States and

in preventing and punishing corruption by government officials and the laundering in that country of drug-related profits or drug-related monies.

(2) In making the certification required by paragraph (1), the President shall give foremost consideration to whether the actions of the government of the country have resulted in the maximum reductions in illicit drug production which were determined to be achievable pursuant to section 481(e)(4) of the Foreign Assistance Act of 1961. The President shall also consider whether such government—

(A) has taken the legal and law enforcement measures to enforce in its territory, to the maximum extent possible, the elimination of illicit cultivation and the suppression of illicit manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances, as evidenced by seizures of such drugs and substances and of illicit laboratories and the arrest and prosecution of violators involved in the traffic in such drugs and substances significantly affecting the United States;

(B) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, the laundering in that country of drug-related profits or drug-related monies, as evidence by—

(i) the enactment and enforcement of laws prohibiting such conduct,

(ii) the willingness of such government to enter into mutual legal assistance agreements with the United States governing (but not limited to) money laundering, and

(iii) the degree to which such government otherwise cooperates with United States law enforcement authorities on anti-money laundering efforts; and

(C) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, corruption by government officials, with particular emphasis on the elimination of bribery.

(3) Subsection (a) shall apply to a country without regard to paragraph (1) of this subsection if the Congress enacts, within 30 days of continuous session after receipt of a certification under paragraph (1), a joint resolution disapproving the determination of the President contained in that certification.

(4) If the President takes action under subsection (a), that action shall remain in effect until—

(A) the President makes the certification under paragraph (1), a period of 30 days of continuous session of Congress elapses, and during that period the Congress does not enact a joint resolution of disapproval; or

(B) the President submits at any other time a certification of the matters described in paragraph (1) with respect to that country, a period of 30 days of continuous session of Congress elapses, and during that period the Congress does not enact a joint resolution of disapproving the determination contained in that certification.

(5) For the purpose of expediting the consideration and enactment of joint resolutions under paragraphs (3) and (4)—

(A) a motion to proceed to the consideration of any such joint resolution after it has been reported by the Committee on Ways and Means shall be treated as highly privileged in the House of Representatives; and

(B) a motion to proceed to the consideration of any such joint resolution after it has been reported by the Committee on Finance shall be treated as privileged in the Senate.

(c) DURATION OF ACTION.—The action taken by the President under paragraph (1), (2), or (3) of subsection (a) shall apply to the products of a foreign country that are entered, or withdrawn from warehouse for consumption, during the period that such action is in effect.

(d) PRESIDENTIAL ACTION REGARDING AVIATION.—

(1)(A) The President is authorized to notify the government of a country against which is imposed the sanction described in subsection (a)(4) of his intention to suspend the authority of foreign air carriers owned or controlled by the government or nationals of that country to engage in foreign air transportation to or from the United States.

(B) Within 10 days after the date of notification of a government under subparagraph (A), the Secretary of Transportation shall take all steps necessary to suspend at the earliest possible date the authority of any foreign air carrier owned or controlled, directly or indirectly, by the government or nationals of that country to engage in foreign air transportation to or from the United States, notwithstanding any agreement relating to air services.

(C) The President may also direct the Secretary of Transportation to take such steps as may be necessary to suspend the authority of any air carrier to engage in foreign air transportation between the United States and that country.

(2)(A) The President may direct the Secretary of State to terminate any air service agreement between the United States and a country against which the sanction described in subsection (a)(4) is imposed in accordance with the provisions of that agreement.

(B) Upon termination of an agreement under this paragraph, the Secretary of Transportation shall take such steps as may be necessary to revoke at the earliest possible date the right of any foreign air carrier owned, or controlled, directly or indirectly, by the government or nationals of that country to engage in foreign air transportation to or from the United States.

(C) Upon termination of an agreement under this paragraph, the Secretary of Transportation may also revoke the authority of any air carrier to engage in foreign air transportation between the United States and that country.

(3) The Secretary of Transportation may provide for such exceptions from paragraphs (1) and (2) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

(4) For purposes of this subsection, the terms "air transportation", "air carrier," "foreign air carrier" and "foreign air transportation" have the meanings such terms have under section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301.)

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SEC. 805. DEFINITIONS.

For purposes of this title—

(1) continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period indicated;

(2) the term "major drug producing country" means a country producing five metric tons or more of opium or opium derivative during a fiscal year or producing five hundred metric tons or more of coca or marijuana (as the case may be) during a fiscal year; and

(3) the term "major drug-transit country" means a country—

(A) that is a significant direct source of illicit narcotic or psychotropic drugs or other controlled substances significantly affecting the United States;

(B) through which are transported such drugs or substances; or

(C) through which significant sums of drug-related profits or monies are laundered with the knowledge or complicity of the government; and

(4) the term "narcotic and psychotropic drugs and other controlled substances" has the same meaning as is given by any applicable international narcotic control agreement or domestic law of the country or countries concerned.

INTERNATIONAL SECURITY AND DEVELOPMENT
COOPERATION ACT OF 1985

(Public Law 99-83; 99 Stat. 222-227)

TITLE V—INTERNATIONAL TERRORISM AND FOREIGN
AIRPORT SECURITY

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PART B—FOREIGN AIRPORT SECURITY

SEC. 551. SECURITY STANDARDS FOR FOREIGN AIR TRANSPORTATION.

(a) * * *

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(c) CLOSING OF BEIRUT INTERNATIONAL AIRPORT.—It is the sense of the Congress that the President is urged and encouraged to take all appropriate steps to carry forward his announced policy of seeking the effective closing of the international airport in Beirut, Lebanon, at least until such time as the Government of Lebanon has instituted measures and procedures designed to prevent the use of that airport by aircraft hijackers and other terrorists in attacking civilian airlines or their passengers, hijacking their aircraft, or taking or holding their passengers hostage.

SEC. 552. TRAVEL ADVISORY AND SUSPENSION OF FOREIGN ASSISTANCE.

(a) TRAVEL ADVISORY.—Upon being notified by the Secretary of Transportation that the Secretary has determined, pursuant to subsection (e)(1)(B) of section 1115 of the Federal Aviation Act of 1958 that a condition exists that threatens the safety or security of passengers, aircraft, or crew travelling to or from a foreign airport which the Secretary of Transportation has determined pursuant to that section to be an airport which does not maintain and administer effective security measures, the Secretary of State shall immediately issue a travel advisory with respect to that airport. Any travel advisory issued pursuant to this subsection shall be published in the Federal Register. The Secretary of State shall take the necessary steps to widely publicize that travel advisory.

(b) SUSPENSION OF FOREIGN ASSISTANCE.—The President shall suspend all assistance under the Foreign Assistance Act of 1961 or the Arms Export Control Act to any country in which is located an airport with respect to which section 1115(e)(2) of the Federal Aviation Act of 1958 becomes effective if the Secretary of State determines that such country is a high terrorist threat country. The President may waive the requirements of this subsection if the President determines and reports to the Congress that national security interests or a humanitarian emergency require such waiver.

(c) **LIFTING SANCTIONS.**—The sanctions required to be imposed pursuant to this section may be lifted only if, pursuant to section 1115(f) of the Federal Aviation Act of 1958, the Secretary of Transportation, in consultation with the Secretary of State, has determined that effective security measures are maintained and administered at the airport with respect to which the Secretary of Transportation had made the determination described in section 1115 of that Act.

(d) **NOTIFICATION TO CONGRESS.**—The Congress shall be notified if any sanction imposed pursuant to this section is lifted.

SEC. 553. UNITED STATES AIRMARSHAL PROGRAM.

(a) **STUDY OF NEED FOR EXPANSION OF PROGRAM.**—The Secretary of Transportation, in coordination with the Secretary of State, shall study the need for an expanded airmarshal program on international flights of United States air carriers. The Secretary of Transportation shall report the results of this study to the Congress within 6 months after the date of enactment of this Act.

(b) **AUTHORITY TO CARRY FIREARMS AND MAKE ARRESTS.**—The Secretary of Transportation, with the approval of the Attorney General and the Secretary of State, may authorize persons, in connection with the performance of their air transportation security duties, to carry firearms and to make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States, if they have reasonable grounds to believe that the person to be arrested has committed or is committing a felony.

SEC. 554. ENFORCEMENT OF INTERNATIONAL CIVIL AVIATION ORGANIZATION STANDARDS.

The Secretary of State and the Secretary of Transportation, jointly, shall call on the member countries of the International Civil Aviation Organization to enforce that Organization's existing standards and to support United States actions enforcing such standards.

SEC. 555. INTERNATIONAL CIVIL AVIATION BOYCOTT OF COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

It is the sense of the Congress that the President—

(1) should call for an international civil aviation boycott with respect to those countries which the President determines—

(A) grant sanctuary from prosecution to any individual or group which has committed an act of international terrorism, or

(B) otherwise support international terrorism; and

(2) should take steps, both bilateral and multilateral, to achieve a total international civil aviation boycott with respect to those countries.

SEC. 556. MULTILATERAL AND BILATERAL AGREEMENTS WITH RESPECT TO AIRCRAFT SABOTAGE, AIRCRAFT HIJACKING, AND AIRPORT SECURITY.

The Secretary of State shall seek multilateral and bilateral agreement on strengthening enforcement measures and standards for compliance with respect to aircraft sabotage, aircraft hijacking, and airport security.

SEC. 557. RESEARCH ON AIRPORT SECURITY TECHNIQUES FOR DETECTING EXPLOSIVES.

In order to improve security at international airports, there are authorized to be appropriated to the Secretary of Transportation from the Airport and Airway Trust Fund (in addition to amounts otherwise available for such purpose) \$5,000,000, without fiscal year limitation, to be used for research on and the development of airport security devices or techniques for detecting explosives.

SEC. 558. HIJACKING OF TWA FLIGHT 847 AND OTHER ACTS OF TERRORISM.

The Congress joins with all Americans in celebrating the release of the hostages taken from Trans World Airlines flight 847. It is the sense of the Congress that—

(1) purser Uli Derickson, pilot John Testrake, co-pilot Philip Maresca, flight engineer Benjamin Zimmermann, and the rest of the crew of Trans World Airlines flight 847 displayed extraordinary valor and heroism during the hostages' ordeal and therefore should be commended;

(2) the hijackers who murdered United States Navy Petty Officer Stethem should be immediately brought to justice;

(3) all diplomatic means should continue to be employed to obtain the release of the 7 United States citizens previously kidnapped and still held in Lebanon;

(4) acts of international terrorism should be universally condemned; and

(5) the Secretary of State should be supported in his efforts to gain international cooperation to prevent future acts of terrorism.

SEC. 559. EFFECTIVE DATE.

This part shall take effect on the date of enactment of this Act.



SECTION 306 OF THE COMPREHENSIVE ANTI-APARTHEID ACT OF 1986

(Public Law 99-440; 101 Stat. 1100-1101)

PROHIBITION ON AIR TRANSPORTATION WITH SOUTH AFRICA

SEC. 306. (a)(1) The President shall immediately notify the Government of South Africa of his intention to suspend the rights of any air carrier designated by the Government of South Africa under the Agreement Between the Government of the United States of America and the Government of the Union of South Africa Relating to Air Services Between Their Respective Territories, signed May 23, 1947, to service the routes provided in the Agreement.

(2) Ten days after the date of enactment of this Act, the President shall direct the Secretary of Transportation to revoke the right of any air carrier designated by the Government of South Africa under the Agreement to provide service pursuant to the Agreement.

(3) Ten days after the date of enactment of this Act, the President shall direct the Secretary of Transportation not to permit or otherwise designate any United States air carrier to provide service between the United States and South Africa pursuant to the Agreement.

(b)(1) The Secretary of State shall terminate the Agreement Between the Government of the United States of America and the Government of the Union of South Africa Relating to Air Services Between Their Respective Territories, signed May 23, 1947, in accordance with the provisions of that agreement.

(2) Upon termination of such agreement, the Secretary of Transportation shall prohibit any aircraft of a foreign air carrier owned, directly or indirectly, by the Government of South Africa or by South African nationals from engaging in air transportation with respect to the United States.

(3) The Secretary of Transportation shall prohibit the takeoff and landing in South Africa of any aircraft by an air carrier owned, directly or indirectly, or controlled by a national of the United States or by any corporation or other entity organized under the laws of the United States or of any State.

(c) The Secretary of Transportation may provide for such exceptions from the prohibition contained in subsection (a) or (b) as the Secretary considers necessary to provide for emergencies in which the Safety of an aircraft or its crew or passengers is threatened.

(d) For purposes of this section, the terms "aircraft", "air transportation", and "foreign air carrier" have the meanings given those terms in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301).

Federal Aviation Act of 1958
CAB Sunset Act of 1984
Employee Protection Provisions
Airport and Airway Improvement Act of 1982
Tax provisions relating to air transportation
Airport and Airway Trust Fund
Independent Safety Board Act of 1974
Aviation Safety and Noise Abatement Act of 1979; International Air Transportation Competition Act of 1979
Acts relating to Washington area airports
Government guaranty of loans to air carriers
Acts relating to surplus airport property
Hazardous Materials Transportation Act
Selected provisions of subtitle I of title 49
Laws Relating to International Aviation

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